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HAMILTON'S WORKS.

VOL. II.

THE WORKS

OF

ALEXANDER HAMILTON;

COMPRISING

HIS CORRESPONDENCE,

AND

HIS POLITICAL AND OFFICIAL WRITINGS,

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EDITED BY

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AUTHOR OF "THE LIFE OF HAMILTON."

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Two modes of editing these Works presented themselves: one, the publication of them in chronological series, without distinction of subject or character; another, the publication of all the correspondence consecutively, according to date, and a similar but distinct disposition of the other writings. On reflection, I have preferred a third course: that of comprising in a separate volume the correspondence, and in another, the remaining writings, which precede the organization of the present Constitution of the United States. As that correspondence and those writings chiefly relate to that important epoch in our history, this seemed to be a natural point of division.

In the future volumes, a similar distribution will be observed, with this difference: the classification of the official papers according to their subjects and dates, to be followed by the residue of the correspondence, as in part arising out of, or explanatory of these papers. The publication to close with the writings not official.

J. C. H.

New-York, Oct. 12, 1850.

A FULL VINDICATION.

December 15, 1774.

A Full Vindication of the Measures of Congress from the calumnies of their enemies, in answer to a Letter under the signature of a Westchester Farmer; whereby his *sophistry* is exposed, his *cavils* confuted, his *artifices* detected, and his *wit* ridiculed, in a General Address to the inhabitants of America, and a Particular Address to the Farmers of the *Province* of *New-York*. Veritas magna est et prevalebit—Truth is powerful and will prevail. New-York: printed by James Rivington: 1774.

Friends and Countrymen:

It was hardly to be expected that any man could be so presumptuous, as openly to controvert the equity, wisdom, and authority of the measures adopted by the Congress: an assembly truly respectable on every account! Whether we consider the characters of the men who composed it; the number and dignity of their constituents; or the important ends for which they were appointed. But, however improbable such a degree of presumption might have seemed, we find there are some in whom it exists. Attempts are daily making to diminish the influence of

their decisions, and prevent the salutary effects intended by them. The impotence of such insidious efforts is evident from the general indignation they are treated with; so that no material ill-consequences can be dreaded from them. But lest they should have a tendency to mislead, and prejudice the minds of a few, it cannot be deemed altogether useless to bestow some notice upon them.

And first, let me ask these restless spirits, Whence arises that violent antipathy they seem to entertain, not only to the natural rights of mankind, but to common sense and common modesty? That they are enemies to the natural rights of mankind is manifest, because they wish to see one part of their species enslaved by another. That they have an invincible aversion to common sense, is apparent in many respects: They endeavor to persuade us, that the absolute sovereignty of parliament does not imply our absolute slavery; that it is a Christian duty to submit to be plundered of all we have, merely because some of our fellow subjects are wicked enough to require it of us; that slavery, so far from being a great evil, is a great blessing; and even, that our contest with Britain is founded entirely upon the petty duty of three pence per pound on East India tea; whereas the whole world knows, it is built upon this interesting question, Whether the inhabitants of Great Britain have a right to dispose of the lives and properties of the inhabitants of America, or not? And lastly, that these men have discarded all pretension to common modesty, is clear from hence; first, because they, in the plainest terms, call an august body of men, famed for their patriotism and abilities, fools or knaves; and of course the people whom they represented, cannot be exempt from the same opprobrious appellations; and secondly, because they set themselves up as standards of wisdom and probity, by contradicting and censuring the public voice in favor of those men.

A little consideration will convince us, that the Congress, instead of having "ignorantly misunderstood, carelessly neglected, or basely betrayed the interests of the colonies," have, on the contrary, devised and recommended the only effectual means to secure the freedom, and establish the future prosperity of Ame-

rica upon a solid basis. If we are not free and happy hereafter, it must proceed from the want of integrity and resolution, in executing what they have concerted; not from the temerity or impolicy of their determinations.

Before I proceed to confirm this assertion by the most obvious arguments, I will premise a few brief remarks. The only distinction between freedom and slavery consists in this: In the former state a man is governed by the laws to which he has given his consent, either in person, or by his representative: In the latter, he is governed by the will of another. In the one case, his life and property are his own: in the other, they depend upon the pleasure of a master. It is easy to discern which of these two states is preferable. No man in his senses can hesitate in choosing to be free, rather than a slave.

That Americans are entitled to freedom is incontestable upon every rational principle. All men have one common original: they participate in one common nature, and consequently have one common right. No reason can be assigned why one man should exercise any power or pre-eminence over his fellow-creatures more than another; unless they have voluntarily vested him with it. Since, then, Americans have not, by any act of theirs, empowered the British Parliament to make laws for them, it follows they can have no just authority to do it.

Besides the clear voice of natural justice in this respect, the fundamental principles of the English constitution are in our favor. It has been repeatedly demonstrated, that the idea of legislation, or taxation, when the subject is not represented, is inconsistent with *that*. Nor is this all; our charters, the express conditions on which our progenitors relinquished their native countries, and came to settle in this, preclude every claim of ruling and taxing us without our assent.

Every subterfuge that sophistry has been able to invent, to evade or obscure this truth, has been refuted by the most conclusive reasonings; so that we may pronounce it a matter of undeniable certainty, that the pretensions of Parliament are contradictory to the law of nature, subversive of the British constitution, and destructive of the faith of the most solemn compacts.

What, then, is the subject of our controversy with the mother country? It is this: Whether we shall preserve that security to our lives and properties, which the law of nature, the genius of the British constitution, and our charters, afford us; or whether we shall resign them into the hands of the British House of Commons, which is no more privileged to dispose of them than the Great Mogul? What can actuate those men who labor to delude any of us into an opinion, that the object of contention between the parent state and the colonies, is only three pence duty upon tea? or that the commotions in America originate in a plan, formed by some turbulent men, to erect it into a republican government? The Parliament claims a right to tax us in all cases whatsoever: its late acts are in virtue of that claim. How ridiculous, then, is it to affirm, that we are quarrelling for the trifling sum of three pence a pound on tea; when it is evidently the principle against which we contend.

The design of electing members to represent us in general Congress, was, that the wisdom of America might be collected in devising the most proper and expedient means to repel this atrocious invasion of our rights. It has been accordingly done. Their decrees are binding upon all, and demand a religious observance.

We did not, especially in this province, circumscribe them by any fixed boundary; and therefore, as they cannot be said to have exceeded the limits of their authority, their act must be esteemed the act of their constituents. If it should be objected, that they have not answered the end of their election, but have fallen upon an improper and ruinous mode of proceeding, I reply by asking, Who shall be the judge? Shall any individual oppose his private sentiment to the united counsels of men, in whom America has reposed so high a confidence? The attempt must argue no small degree of arrogance and self-sufficiency.

Yet this attempt has been made; and it is become, in some measure, necessary to vindicate the conduct of this venerable assembly from the aspersions of men, who are their adversaries, only because they are foes to America.

When the political salvation of any community is depending,

it is incumbent upon those who are set up as its guardians, to embrace such measures as have justice, vigor, and a probability of success to recommend them. If, instead of this, they take those methods which are in themselves feeble, and little likely to succeed; and may, through a defect in vigor, involve the community in still greater danger, they may be justly considered as its betrayers. It is not enough, in times of imminent peril, to use only possible means of preservation. Justice and sound policy dictate the use of probable means.

The only scheme of opposition, suggested by those who have been and are averse from a non-importation and non-exportation agreement, is, by REMONSTRANCE and PETITION. The authors and abettors of this scheme have never been able to invent a single argument to prove the likelihood of its succeeding. On the other hand, there are many standing facts and valid considerations against it.

In the infancy of the present dispute, we had recourse to this method only. We addressed the throne in the most loyal and respectful manner, in a legislative capacity; but what was the consequence? Our address was treated with contempt and neglect. The first American Congress did the same, and met with similar treatment. The total repeal of the stamp act, and the partial repeal of the revenue acts, took place, not because the complaints of America were deemed just and reasonable, but because these acts were found to militate against the commercial interests of Great Britain. This was the declared motive of the repeal.

These instances are sufficient for our purpose; but they derive greater validity and force from the following:

The legal assembly of Massachusetts Bay presented, not long since, a most humble, dutiful, and earnest petition to his Majesty, requesting the dismission of a governor highly odious to the people, and whose misrepresentations they regarded as one chief source of all their calamities. Did they succeed in their request? No—it was treated with the greatest indignity, and stigmatized as "a seditious, vexatious, and scandalous libel."

I know the men I have to deal with will acquiesce in this

stigma. Will they also dare to calumniate the noble and spirited petition that came from the Mayor and Aldermen of the city of London. Will they venture to justify that unparalleled stride of power by which popery and arbitrary dominion were established in Canada? The citizens of London remonstrated against it; they signified its repugnancy to the principles of the revolution; but, like ours, their complaints were unattended to. From thence we may learn how little dependence ought to be placed on this method of obtaining the redress of grievances.

There is less reason now than ever to expect deliverance, in this way, from the hand of oppression. The system of slavery, fabricated against America, cannot, at this time, be considered as the effect of inconsideration and rashness. It is the offspring of mature deliberation. It has been fostered by time, and strengthened by every artifice human subtilty is capable of. After the claims of parliament had lain dormant for awhile, they are again resumed and prosecuted with more than common ardor. The Premier has advanced too far to recede with safety. He is deeply interested to execute his purpose, if possible. We know he has declared, that he will never desist, till he has brought America to his feet; and we may conclude, nothing but necessity will induce him to abandon his aims. In common life, to retract an error, even in the beginning, is no easy task; perseverance confirms us in it, and rivets the difficulty. But in a public station, to have been in an error, and to have persisted in it, when it is detected, ruins both reputation and fortune. To this we may add, that disappointment and opposition inflame the minds of men, and attach them still more to their mistakes.

What can we represent which has not already been represented? What petitions can we offer, that have not already been offered? The rights of America, and the injustice of parliamentary pretensions, have been clearly and repeatedly stated, both in and out of parliament. No new arguments can be framed to operate in our favor. Should we even resolve the errors of the ministry and parliament into the fallibility of human understanding, if they have not yet been convinced, we have no prospect of being able to do it by any thing further we

can say. But if we impute their conduct to a wicked thirst of domination and disregard to justice, we have no hope of prevailing with them to alter it, by expatiating on our rights, and suing to their compassion for relief; especially since we have found, by various experiments, the inefficacy of such methods. Upon the whole, it is morally certain, this mode of opposition would be fruitless and defective. The exigency of the times requires vigorous and probable remedies; not weak and improbable. It would, therefore, be the extreme of folly to place any confidence in, much less confine ourselves wholly to it.

This being the case, we can have no resource but in a restriction of our trade, or in a resistance *vi et armis*. It is impossible to conceive any other alternative. Our Congress, therefore, have imposed what restraint they thought necessary. Those who condemn or clamor against it, do nothing more, nor less, than advise us to be slaves.

I shall now examine the principal measures of the Congress, and vindicate them fully from the charge of injustice or impolicy.

Were I to argue in a philosophical manner, I might say, the obligation to a mutual intercourse, in the way of trade, with the inhabitants of Great Britain, Ireland, and the West Indies, is of the *imperfect* kind. There is no law, either of nature, or of the civil society in which we live, that obliges us to purchase, and make use of the products and manufactures of a different land or people. It is indeed a dictate of humanity to contribute to the support and happiness of our fellow-creatures, and more especially those who are allied to us by the ties of blood, interest, and mutual protection; but humanity does not require us to sacrifice our own security and welfare to the convenience or advantage of others. Self-preservation is the first principle of our nature. When our lives and properties are at stake, it would be foolish and unnatural to refrain from such measures as might preserve them, because they would be detrimental to others.

But we are justified upon another principle besides this. Though the manufacturers of Great Britain and Ireland, and the inhabitants of the West Indies, are not chargeable with any actual crime towards America; they may, in a political view, be

esteemed criminal. In a civil society, it is the duty of each particular branch to promote, not only the good of the whole community, but the good of every other particular branch. If one part endeavors to violate the rights of another, the rest ought to assist in preventing the injury. When they do not, but remain neutral, they are deficient in their duty, and may be regarded, in some measure, as accomplices.

The reason of this is obvious, from the design of civil society; which is, that the united strength of the several members might give stability and security to the whole body, and each respective member; so that one part cannot encroach upon another, without becoming a common enemy, and eventually endangering the safety and happiness of all the other parts.

Since, then, the persons who will be distressed by the methods we are using for our own protection, have, by their neutrality, first committed a breach of an obligation, similar to that which bound us to consult their emolument; it is plain, the obligation upon us is annulled, and we are blameless in what we are about to do.

With respect to the manufacturers of Great Britain, they are criminal in a more particular sense. Our oppression arises from that member of the great body politic, of which they compose a considerable part. So far as their influence has been wanting to counteract the iniquity of their rulers, so far they acquiesced in it, and are to be deemed confederates in their guilt. It is impossible to exculpate a people, that suffers its rulers to abuse and tyrannize over others.

It may not be amiss to add, that we are ready to receive with open arms any who may be sufferers by the operation of our measures, and recompense them with every blessing our country affords to honest industry. We will receive them as brethren, and make them sharers with us in all the advantages we are struggling for.

From these plain and indisputable principles, the mode of opposition we have chosen, is reconcileable to the strictest maxims of justice. It remains now to be examined, whether it has also the sanction of good policy.

To render it agreeable to good policy, three things are requisite. First, that the necessity of the times requires it; secondly, that it be not the probable source of greater evils than those it pretends to remedy; and lastly, that it have a probability of success.

That the necessity of the times demands it, needs but little elucidation. We are threatened with absolute slavery. It has been proved, that resistance by means of REMONSTRANCE and PETITION, would not be efficacious, and of course, that a restriction on our trade, is the only peaceable method in our power to avoid the impending mischief. It follows, therefore, that such a restriction is necessary.

That it is not the probable source of greater evils than those it pretends to remedy, may easily be determined. The most abject slavery, which comprehends almost every species of human misery, is what it is designed to prevent.

The consequences of the means are a temporary stagnation of commerce, and thereby a deprivation of the luxuries, and some of the conveniences of life. The necessaries and many of the conveniences our own fertile and propitious soil affords us.

No person that has enjoyed the sweets of liberty, can be insensible of its infinite value, or can reflect on its reverse, without horror and detestation. No person that is not lost to every generous feeling of humanity, or that is not stupidly blind to his own interest, could bear to offer himself and posterity as victims at the shrine of despotism, in preference to enduring the short-lived inconveniences that may result from an abridgment, or even entire suspension of commerce.

Were not the disadvantages of slavery too obvious to stand in need of it, I might enumerate and describe the tedious train of calamities inseparable from it. I might show that it is fatal to religion and morality; that it tends to debase the mind, and corrupt its noblest springs of action. I might show that it relaxes the sinews of industry, clips the wings of commerce, and introduces misery and indigence in every shape.

Under the auspices of tyranny, the life of the subject is often sported with, and the fruits of his daily toil are consumed in op-

pressive taxes, that serve to gratify the ambition, avarice, and lusts of his superiors. Every court minion riots in the spoils of the honest laborer, and despises the hand by which he is fed. The page of history is replete with instances that loudly warn us to beware of slavery.

ROME was the nurse of freedom. She was celebrated for her justice and lenity; but in what manner did she govern her dependent provinces? They were made the continual scene of rapine and cruelty. From thence let us learn, how little confidence is due to the wisdom and equity of the most exemplary nations.

Should Americans submit to become the vassals of their fellow-subjects in Great Britain, their yoke will be peculiarly grievous and intolerable. A vast majority of mankind is entirely biassed by motives of self-interest. Most men are glad to remove any burthens off themselves, and place them upon the necks of their neighbors. We cannot, therefore, doubt but that the British Parliament, with a view to the ease and advantage of itself and its constituents, would oppress and grind the Americans as much as possible. Jealousy would concur with selfishness; and for fear of the future independence of America, if it should be permitted to rise to too great a height of splendor and opulence, every method would be taken to drain it of its wealth, and restrain its prosperity. We are already suspected of aiming at independence, and that is one principal cause of the severity we experience. The same cause will always operate against us, and produce a uniform severity of treatment.

The evils which may flow from the execution of our measures, if we consider them with respect to their extent and duration, are comparatively nothing. In all human probability they will scarcely be felt. Reason and experience teach us, that the consequences would be too fatal to Great Britain to admit of delay. There is an immense trade between her and the colonies. The revenues arising from thence are prodigious. The consumption of her manufactures in these colonies, supplies the means of subsistence to a vast number of her most useful inhabitants. The experiment we have made heretofore, shows us of how much importance our commercial connection is to her; and

gives us the highest assurance of obtaining immediate redress by suspending it.

From these considerations it is evident she must do something decisive. She must either listen to our complaints, and restore us to a peaceful enjoyment of our violated rights; or she must exert herself to enforce her despotic claims by fire and sword. To imagine she would prefer the latter, implies a charge of the grossest infatuation, of madness itself. Our numbers are very considerable; the courage of Americans has been tried and proved. Contests for liberty have ever been found the most bloody, implacable, and obstinate. The disciplined troops Great Britain could send against us, would be but few. Our superiority in number would overbalance our inferiority in discipline. It would be a hard, if not impracticable task, to subjugate us by force.

Besides, while Great Britain was engaged in carrying on an unnatural war against us, her commerce would be in a state of decay. Her revenues would be decreasing. An armament, sufficient to enslave America, would put her to an insupportable expense.

She would be laid open to the attacks of foreign enemies. Ruin, like a deluge, would pour in from every quarter. After lavishing her blood and treasure to reduce us to a state of vassalage, she would herself become a prey to some triumphant neighbor.

These are not imaginary mischiefs. The Colonies contain above three millions of people. Commerce flourishes with the most rapid progress throughout them. This commerce Great Britain has hitherto regulated to her own advantage. Can we think the annihilation of so exuberant a source of wealth a matter of trifling import? On the contrary, must it not be productive of the most disastrous effects? It is evident it must. It is equally evident, that the conquest of so numerous a people, armed in the animating cause of liberty, could not be accomplished without an inconceivable expense of blood and treasure.

We cannot, therefore, suspect Great Britain to be capable of such frantic extravagance as to hazard these dreadful conse-

quences; without which, she must necessarily desist from her unjust pretensions, and leave us in the undisturbed possession of our privileges.

Those who affect to ridicule the resistance America might make to the military force of Great Britain, and represent its humiliation as a matter the most easily to be achieved, betray either a mind clouded by the most irrational prejudices, or a total ignorance of human nature. However, it must be the wish of every honest man never to see a trial.

But should we admit a possibility of a third course, as our pamphleteer supposes; that is, the endeavoring to bring us to a compliance by putting a stop to our whole trade; even this would not be so terrible as he pretends. We can live without trade of any kind. Food and clothing we have within ourselves. Our climate produces cotton, wool, flax, and hemp; which, with proper cultivation, would furnish us with summer apparel in abundance. The article of cotton, indeed, would do more; it would contribute to defend us from the inclemency of winter. We have sheep, which, with due care in improving and increasing them, would soon yield a sufficiency of wool. The large quantity of skins we have among us, would never let us want a warm and comfortable suit. It would be no unbecoming employment for our daughters to provide silks of their own country. The silk-worm answers as well here as in any part of the world. Those hands, which may be deprived of business by the cessation of commerce, may be occupied in various kinds of manufactures and other internal improvements. If, by the necessity of the thing, manufactures should once be established, and take root among us, they will pave the way still more to the future grandeur and glory of America; and, by lessening its need of external commerce, will render it still securer against the encroachments of tyranny.

It is, however, chimerical to imagine, that the circumstances of Great Britain will admit of such a tardy method of subjugating us, for reasons which have been already given, and which shall be corroborated by others equally forcible.

I come now to consider the last and principal ingredient that

constitutes the policy of a measure, which is, a probability of success. I have been obliged to anticipate this part of my subject in considering the second requisite; and, indeed, what I have already said, seems to me to leave no room for doubting, that the means we have used will be successful; but I shall here examine the matter more thoroughly, and endeavor to evince it more fully.

The design of the Congress in their proceedings, it cannot, and need not be denied, was, either, by a prospect of the evil consequences, to influence the ministry to give up their enterprise; or, should they prove inflexible, to affect the inhabitants of Great Britain, Ireland, and the West Indies, in such a manner as to rouse them from their state of neutrality, and engage them to unite with us in opposing the lawless hand of tyranny, which is extended to ravish our liberty from us, and might soon be extended for the same purpose against them.

The FARMER mentions, as one probable consequence of our measures, "clamors, discord, confusion, mobs, riots, insurrections, rebellions in Great Britain, Ireland, and the West Indies;" though at the same time that he thinks *it is*, he also thinks *it is not*, a probable consequence. For my part, without hazarding any such seeming contradictions, I shall, in a plain way, assert that I verily believe, a non-importation and non-exportation, will effect all the purposes they are intended for.

It is no easy matter to make any tolerably exact estimate of the advantages that accrue to Great Britain, Ireland, and the West Indies, from their commercial intercourse with the colonies; nor, indeed, is it necessary. Every man, the least acquainted with the state and extent of our trade, must be convinced, it is the source of immense revenues to the parent state, and gives employment and bread to a vast number of his Majesty's subjects. It is impossible but that a suspension of it, for any time, must introduce beggary and wretchedness, in an eminent degree, both in England and Ireland. And as to the West India plantations, they could not possibly subsist without us. I am the more confident of this, because I have a pretty general acquaintance with their circumstances and dependencies.

We are told, "that it is highly improbable, we shall succeed in distressing the people of Great Britain, Ireland, and the West Indies, so far as to oblige them to join with us in getting the acts of Parliament, which we complain of, repealed. The first distress," it is said, "will fall on ourselves; it will be more severely felt by us, than any part of all his Majesty's dominions, and will affect us the longest. The fleets of Great Britain command respect throughout the globe. Her influence extends to every part of the earth. Her manufactures are equal to any, superior to most in the world. Her wealth is great. Her people enterprising and persevering in their attempts to extend, and enlarge, and protect her trade. The total loss of our trade will be felt only for a time. Her merchants would turn their attention another way; new sources of trade and wealth would be opened; new schemes pursued. She would soon find a vent for all her manufactures in spite of all we could do. Our malice would hurt only ourselves. Should our schemes distress some branches of her trade, it would be only for a time; and there is ability and humanity enough in the nation to relieve those that are distressed by us, and put them in some other way of getting their living."

The omnipotence and all-sufficiency of Great Britain may be pretty good topics for her passionate admirers to exercise their declamatory powers upon, for amusement and trial of skill; but they ought not to be proposed to the world as matters of truth and reality. In the calm, unprejudiced eye of reason, they are altogether visionary. As to her wealth, it is notorious that she is oppressed with a heavy national debt, which it requires the utmost policy and economy ever to discharge. Luxury has arrived to a great pitch; and it is a universal maxim, that luxury indicates the declension of a state. Her subjects are loaded with the most enormous taxes. All circumstances agree in declaring their distress. The continual emigrations from Great Britain and Ireland to the continent, are a glaring symptom that those kingdoms are a good deal impoverished.

The attention of Great Britain has hitherto been constantly awake to expand her commerce. She has been vigilant to ex-

plore every region with which it might be her interest to trade. One of the principal branches of her commerce is with the colonies. These colonies, as they are now settled and peopled, have been the work of near two centuries. They are blessed with every advantage of soil, climate, and situation. They have advanced with an almost incredible rapidity. It is, therefore, an egregious piece of absurdity to affirm, that the loss of our trade would be felt for a time (which must signify a short time). No new schemes could be pursued that would not require, at least, as much time to repair the loss of our trade, as was spent in bringing it to its present degree of perfection, which is near two centuries. Nor can it be reasonably imagined, that the total and sudden loss of so extensive and lucrative a branch, would not produce the most violent effects to a nation that subsists entirely upon its commerce.

It is said, "there is ability and humanity enough in the nation, to relieve those that are distressed by us, and to put them into some other way of getting their living." I wish the gentleman had obliged his readers so much as to have pointed out this other way. I must confess, I have racked my brains to no purpose to discover it; and I am fully of opinion it is purely ideal. Besides the common mechanic arts, which are subservient to the ordinary uses of life, and which are the instruments of commerce, I know no other ways, in time of peace, in which men can be employed, except in agriculture and the liberal arts. Persons employed in the mechanic arts, are those whom the abridgment of commerce would immediately affect; and as to such branches as might be less affected, they are already sufficiently stocked with workmen, and could give bread to no more. Not only so, but I can't see by what legerdemain, a weaver, or clothier, could be at once converted into a carpenter or blacksmith. With respect to agriculture, the lands of Great Britain and Ireland have been long ago distributed and taken up; nor do they require any additional laborers to till them, so that there could be no employment in this way. The liberal arts cannot maintain those who are already devoted to them; not to say, it is more than proba-

ble, the generality of mechanics would make but indifferent philosophers, poets, painters, and musicians.

What poor shifts is sophistry obliged to have recourse to! We are threatened with the resentment of those against whom our measures will operate. It is said, that "instead of conciliating, we shall alienate the affections of the people of Great Britain; of friends, we shall make them our enemies." And further, that "we shall excite the resentment of the government at home against us, which will do us no good, but, on the contrary, much harm."

Soon after, we are told, that "we shall probably raise the resentment of the Irish and West Indians. The passions of human nature," it is said, "are much the same in all countries. If they find us disposed wantonly to distress them, to serve our own purposes, they will look out for some method to do without us. Will they not look elsewhere for a supply of those articles they used to take from us? They would deserve to be despised for their meanness, did they not."

To these objections I reply, first, with respect to the inhabitants of Great Britain: that if they are our friends, as is supposed, and as we have reason to believe, they cannot, without being destitute of rationality, be incensed against us, for using the only peaceable and probable means in our power, to preserve our invaded rights. They know, by their own experience, how fruitless remonstrances and petitions are. They know we have tried them, over and over, to no purpose. They know also how dangerous to their liberties the loss of ours must be. What, then, could excite their resentment, if they have the least regard to common justice? The calamities that threaten them proceed from the weakness or wickedness of their own rulers, which compels us to take the measures we do. The insinuation, that we *wantonly* distress them, to serve our own purposes, is futile, and unsupported by a single argument. I have shown, we could have no other resource; nor can they think our conduct such, without a degree of infatuation that it would be impossible to provide against, and therefore useless to consult. It is most reasonable to believe, they will revenge the evils they may feel, on

the true authors of them; on an aspiring and ill-judged ministry; not on us, who act out of a melancholy necessity, and are the innocent causes in self-defence.

With respect to the ministry, it is certain, that any thing which has a tendency to frustrate their designs, will not fail to excite their displeasure. But since we have nothing to expect from their justice and lenity, it can be no objection to a measure that it tends to stir up their resentment. But their resentment (it is often said) may ruin us. The impossibility of doing that, without at the same time ruining Great Britain, is a sufficient security.

The same may be said with regard to the Irish and the West Indians, which has been said concerning the people of Great Britain. The Irish, in particular, by their own circumstances, will be taught to sympathize with us, and commend our conduct. Justice will direct their resentment to its proper objects.

It is true, self-love will prompt both the Irish and the West Indians to take every method in their power to escape the miseries they are in danger of. But what methods can they take? "The Irish," it is said, "may be supplied with flax-seed from Holland, the Baltic, and the river St. Lawrence. Canada produces no inconsiderable quantity already." And as to the West Indies, "they produce now many of the necessaries of life. The quantity may be easily increased. Canada will furnish them with many articles they now take from us; flour, lumber, horses, &c. Georgia, the Floridas, and the Mississippi, abound in lumber; Nova Scotia in fish."

The Dutch are rivals to the English in their commerce. They make large quantities of fine linens, gauze, laces, etc., which require the flax to be picked before it comes to seed; for which reason, it is not in their power to raise much more seed than they want for their own use. Ireland has always had the surplus from them. They could, if they were ever so willing, enlarge their usual supplies but very little. It is, indeed, probable they may withhold them. They may choose to improve the occasion for the advancement of their own trade. They may take advantage

of the scarcity of materials in Ireland, to increase and put off their own manufactures.

The Baltic has ever supplied Ireland with its flax; and she has been able to consume that, with all she could derive from other quarters.

As to Canada, I am well informed, it could at present afford but a very inconsiderable quantity. It has had little encouragement, hitherto, to raise that article; and, of course, has not much attended to it. The instances mentioned, of seed being "bought up there at a low price, brought to New-York, and sold to the Irish factors at a great advance," does not prove there is any quantity raised there. Its cheapness proceeds from there being no demand for it; and where there was no demand, there was no inducement to cultivate it.

Upon the whole it appears, that the supplies of flax-seed, which Ireland might draw elsewhere, could be trifling, in comparison with those received from us, and not at all equivalent to her wants. But if this were not the case; if she might procure a sufficiency without our help; yet could she not do without us. She would want purchasers for her linens after they were manufactured; and where could she find any so numerous and wealthy as we are? I must refer it to the profound sagacity of Mr. A W. Farmer to explore them. It is too arduous a task for me.

Much less could the West Indies subsist independent of us. Notwithstanding the continual imports from hence, there is seldom, or ever, in any of the Islands, a sufficient stock of provisions to last six months, which may give us an idea how great the consumption is. The necessaries they produce within themselves, when compared with the consumption, are scarcely worth mentioning. Very small portions of the land are appropriated to the productions of such necessaries; indeed, it is too valuable to admit of it. Nor could the quantity be increased to any material degree, without applying the whole of the land to it. It is alleged, that "Canada will furnish them with flour, lumber, horses, &c.," and that Georgia, the Floridas, and Mississippi, abound in lumber; Nova Scotia in fish." These countries have been all along carrying on a trade to the West Indies as well as we; and can

it be imagined that, alone, they will be able to supply them tolerably? The Canadians have been indolent, and have not improved their country as they ought to have done. The wheat they raise at present, over and above what they have occasion for themselves, would be found to go but little way among the islands. Those who think the contrary, must have mistaken notions of them. They must be unapprised of the number of souls they contain. Almost every one hundred and fifty, or two hundred, acres of land, exclusive of populous towns, comprehend a hundred people. It is not a small quantity of food that will suffice for so many. Ten or fifteen years' diligence, I grant, might enable Canada to perform what is now expected from her; but, in the mean time, the West Indians might have the satisfaction of starving.

To suppose the best; which is, that by applying their canelands to the purpose of procuring sustenance, they may preserve themselves from starving: still, the consequences must be very serious or pernicious. The wealthy planters would but ill relish the loss of their crops: and such of them as were considerably in debt, would be ruined. At any rate, the revenues of Great Britain would suffer a vast diminution.

The FARMER, I am inclined to hope, builds too much upon the present disunion of Canada, Georgia, the Floridas, the Mississippi, and Nova Scotia, from other colonies. A little time, I trust, will awaken them from their slumbers, and bring them to a proper sense of their indiscretion. I please myself with the flattering prospect, that they will, ere long, unite in one indissoluble chain with the rest of the colonies. I cannot believe, they will persist in such a conduct, as must exclude them from the secure enjoyment of those heaven-descended immunities we are contending for.

There is one argument I have frequently heard urged, which it may be of some use to invalidate. It is this: that if the mother country should be inclined to an accommodation of our disputes; we have, by our rash procedure, thrown an insurmountable obstacle in her way; we have made it disgraceful to her to comply

with our requisitions, because they are proposed in a hostile manner.

Our present measures, I have proved, are the only peaceable ones we could place the least confidence in. They are the least exceptionable, upon the score of irritating Great Britain, of any our circumstances would permit. The Congress have petitioned his Majesty for the redress of grievances. They have, no doubt, addressed him in the most humble, respectful and affectionate terms: assured him of their own loyalty and fidelity, and of the loyalty and fidelity of his American subjects in general: endeavored to convince him, that we have been misrepresented and abused: and expressed an earnest desire, to see an amicable termination of the unhappy differences now existing. Can a pretext be wanting, in this case, to preserve the dignity of this parent state, and yet remove the complaints of the colonies? How easy would it be, to overlook our particular agreements, and grant us redress in consequence of our petitions? It is easy to perceive there would be no difficulty in this respect.

I have omitted many considerations which might be adduced, to show the impolicy of Great Britain delaying to accommodate matters, and attempting to enforce submission, by cutting off all external sources of trade. To say all the subject allows, would spin out this piece to an immoderate length. I shall therefore content myself with mentioning only three things more. First, it would be extremely hurtful to the commerce of Great Britain, to drive us to the necessity of laying a regular foundation for manufactories of our own; which, if once established, could not easily, if at all, be undermined, or abolished. Secondly, it would be very expensive to the nation to maintain a fleet for the purpose of blocking up our ports and destroying our trade: nor could she interrupt our intercourse with foreign climes, without, at the same time, retrenching her own revenues; for she must then lose the duties and customs upon the articles we are wont to export to, and import from, them. Added to this, it would not be prudent to risk the displeasure of those nations, to whom our trade is useful and beneficial. And lastly, a perseverance in ill-treatment, would naturally beget such deep-rooted

animosities in America, as might never be eradicated; and which might operate to the prejudice of the empire, to the latest period.

Thus have I clearly proved, that the plan of opposition concerted by our Congress, is perfectly consonant with justice and sound policy; and will, in all human probability, secure our freedom against the assaults of our enemies.

But, after all, it may be demanded, why they have adopted a non-exportation; seeing many arguments tend to show, that a non-importation, alone, would accomplish the end desired?

I answer, that the continuance of our exports, is the only thing which could lessen, or retard, the efficacy of a non-importation. It is not, indeed, probable it should do that to any great degree; but it was advisable to provide against every possible obstruction. Besides this, the prospect of its taking place, and of the evils attendant upon it, will be a prevailing motive with the ministry, to abandon their malignant schemes. It will also serve to convince them, that we are not afraid of putting ourselves to any inconveniences, sooner than be the victims of their lawless ambition.

The execution of this measure, has been wisely deferred to a future time; because we have the greatest reason to think, affairs will be settled without it; and because its consequences would be too fatal, to be justified by any thing but absolute necessity. This necessity there will be, should not our disputes terminate before the time allotted for its commencement.

Before I conclude this part of my address, I will answer two very singular interrogatories proposed by the FARMER. "Can we think," says he, "to threaten, and bully, and frighten, the supreme government of the nation into a compliance with our demands? Can we expect to force submission to our peevish and petulant humors, by exciting clamors and riots in England?" No, gentle sir. We neither desire, nor endeavor, to threaten, bully, nor frighten, any persons into a compliance with our demands. We have no peevish and petulant humors to be submitted to. All we aim at, is, to convince your high and mighty master, the ministry, that we are not such asses as to let them ride us as they please. We are determined to show them that

we know the value of freedom: nor shall their rapacity extort that inestimable jewel from us, without a manly and virtuous struggle. But for your part, sweet sir! though we cannot much applaud your wisdom, yet we are compelled to admire your valor, which leads you to hope you may be able to *swear*, threaten, bully, and frighten, all America into a compliance with your sinister designs. When properly accoutred, and armed with your formidable hickory cudgel, what may not the ministry expect from such a champion? Alas, for the poor committee gentlemen! how I tremble when I reflect on the many wounds and scars they must receive from your tremendous arm! Alas for their supporters and abettors! a very large part, indeed, of the continent: but what of that? They must all be soundly drubbed with that confounded hickory cudgel: for surely you would not undertake to drub one of them, without knowing yourself able to treat all their friends and adherents in the same manner; since 'tis plain you would bring them all upon your back.

I am now to address myself in particular to the Farmers of New-York.

My Good Countrymen:

The reason I address myself to you, in particular, is not because I am one of your number, or connected with you in interest, more than with any other branch of the community. I love to speak the truth, and would scorn to prejudice you in favor of what I have to say, by taking upon me a fictitious character, as other people have done. I can venture to assure you, the true writer of the piece signed A W. Farmer, is not in reality a Farmer. He is some ministerial emissary, that has assumed the name to deceive you, and make you swallow the intoxicating potion he has prepared for you. But I have a better opinion of you, than to think he will be able to succeed. I am persuaded, you love yourselves and children better than to let any designing men cheat you out of your liberty and property, to serve their own purposes. You would be a disgrace to your ancestors,

and the bitterest enemies to yourselves, and to your posterity, if you did not act like men, in protecting and defending those rights you have hitherto enjoyed.

I say, my friends, I do not address you in particular, because I have any greater connection with you than with other people. I despise all false pretensions, and mean arts. Let those have recourse to dissimulation and falsehood, who can't defend their cause without it. 'Tis my maxim, to let the plain naked truth speak for itself: and if men won't listen to it, 'tis their own fault: they must be contented to suffer for it. I am neither merchant, nor farmer. I address you, because I wish well to my country, and of course to you, who are one chief support of it; and because an attempt has been made to lead you astray in particular. You are the men, too, who would lose most, should you be foolish enough to counteract the prudent measures our worthy Congress has taken, for the preservation of our liberties. Those who advise you to do it, are not your friends, but your greatest foes. They would have you made slaves, that they may pamper themselves with the fruits of your honest labor. 'Tis the Farmer who is most oppressed in all countries where slavery prevails.

You have seen how clearly I have proved, that a non-importation and non-exportation, are the only peaceable means in our power, to save ourselves from the most dreadful state of slavery. I have shown there is not the least hope to be placed in any thing else. I have confuted all the principal cavils raised by the pretended Farmer; and I hope, before I finish, to satisfy you, that he has attempted to frighten you with the prospect of evils which will never happen. This, indeed, I have, in a great measure, done already, by making appear, the great probability, I may almost say, certainty, that our measures will procure us the most speedy redress.

Are you willing, then, to be slaves without a single struggle? Will you give up your freedom, or, which is the same thing, will you resign all security for your life and property, rather than endure some small present inconveniences? Will you not take a little trouble to transmit the advantages you now possess, to

those who are to come after you? I cannot doubt it. I would not suspect you of so much baseness and stupidity, as to suppose the contrary.

Pray, who can tell me why a farmer in America, is not as honest and good a man as a farmer in England? or, why has not the one as good a right to what he has earned by his labor as the other? I can't, for my life, see any distinction between them. And yet, it seems, the English farmers are to be governed and taxed by their own Assembly, or Parliament; and the American farmers are not. The former, are to choose their own Representatives from among themselves, whose interest is connected with theirs, and over whom they have proper control. The latter, are to be loaded with taxes by men three thousand miles off; by men who have no interest or connections among them; but whose interest it will be, to burden them as much as possible; and over whom they cannot have the least restraint. How do you like this doctrine, my friends? Are you ready to own the English farmers for your masters? Are you willing to acknowledge their right to take your property from you, and when they please? I know you scorn the thought. You had rather die than submit to it.

But some people try to make you believe, we are disputing about the foolish trifle of three pence duty upon tea. They may as well tell you, that black is white. Surely you can judge for yourselves. Is a dispute, whether the Parliament of Great Britain shall make what laws, and impose what taxes, they please upon us, or not; I say, is this a dispute about three pence duty upon tea? The man that affirms it, deserves to be laughed at.

It is true, we are denying to pay the duty upon tea; but it is not for the value of the thing itself. It is because we cannot submit to that without acknowledging the principle upon which it is founded; and that principle is, *a right to tax us in all cases whatsoever.*

You have heretofore experienced the benefit of being taxed by your own Assemblies only. Your burdens are so light, that you scarcely feel them. You'd soon find the difference, if you

were once to let the Parliament have the management of these matters.

How would you like to pay four shillings a year,* out of every pound your farms are worth, to be squandered (at least a great part of it) upon ministerial tools and court sycophants? What would you think of giving a tenth part of the yearly products of your lands to the clergy? Would you not think it very hard to pay ten shillings sterling, per annum, for every wheel of your waggons and other carriages; a shilling or two for every pane of glass in your houses; and two or three shillings for every one of your hearths? I might mention taxes upon your mares, cows, and many other things; but those I have already mentioned, are sufficient. Methinks I see you stare, and hear you ask, how you could live, if you were to pay such heavy taxes? Indeed, my friends, I can't tell you. You are to look out for that, and take care you do not run yourselves in the way of danger, by following the advice of those who want to betray you. This you may depend upon; if ever you let the Parliament carry its point, you will have these and more to pay. Perhaps, before long, your tables, and chairs, and platters, and dishes, and knives, and forks, and every thing else, would be taxed. Nay, I don't know but they would find means to tax you for every child you got, and for every kiss your daughters received from their sweethearts; and God knows, that would soon ruin you. The people of England would pull down the Parliament House, if their present heavy burdens were not transferred from them to you. Indeed, there is no reason to think, the Parliament would have any inclination to spare you. The contrary is evident.

But being ruined by taxes, is not the worst you have to fear. What security would you have for your lives? How can any of you be sure you would have the free enjoyment of your religion long? Would you put your religion in the power of any set of men living? Remember, civil and religious liberty always

* The full price of your farms every five years.

go together: if the foundation of the one be sapped, the other will fall of course.

Call to mind one of our sister colonies, Boston. Reflect upon the situation of Canada; and then tell me whether you are inclined to place any confidence in the justice and humanity of the Parliament. The port of Boston is blocked up, and an army planted in the town. An act has been passed to alter its charter; to prohibit its assemblies; to license the murder of its inhabitants; and to convey them from their own country to Great Britain to be tried for their lives. What was all this for? Just because a small number of people, provoked by an open and dangerous attack upon their liberties, destroyed a parcel of Tea belonging to the East India Company. It was not public, but private property they destroyed. It was not the act of the whole province, but the act of a part of the citizens. Instead of trying to discover the perpetrators, and commencing a legal prosecution against them, the Parliament of Great Britain interfered in an unprecedented manner, and inflicted a punishment upon a whole province, "untried, unheard, unconvicted of any crime." This may be justice, but it looks so much like cruelty, that a man of a humane heart would be more apt to call it by the latter than the former name.

The affair of Canada, if possible, is still worse. The English laws have been superseded by the French laws. The Romish faith is made the established religion of the land, and his Majesty is placed at the head of it. The free exercise of the Protestant faith depends upon the pleasure of the Governor and Council. The subject is divested of the right of trial by jury, and an innocent man may be imprisoned his whole life, without being able to obtain any trial at all. The Parliament was not contented with introducing arbitrary power and popery in Canada, with its former limits; but they have annexed to it the vast tracts of land that surround all the colonies.

Does not your blood run cold, to think that an English Parliament should pass an act for the establishment of arbitrary power and popery, in such an extensive country? If they had had any regard to the freedom and happiness of mankind, they

would never have done it. If they had been friends to the Protestant cause, they would never have provided such a nursery for its great enemy; they would not have given such encouragement to popery. The thought of their conduct, in this particular, shocks me. It must shock you, too, my friends. Beware of trusting yourselves to men, who are capable of such an action! They may as well establish popery in New-York, and the other colonies, as they did in Canada. They had no more right to do it there than here.

Is it not better, I ask, to suffer a few present inconveniences, than to put yourselves in the way of losing every thing that is precious? Your lives, your property, your religion, are all at stake. I do my duty. I warn you of your danger. If you should still be so mad as to bring destruction upon yourselves; if you should still neglect what you owe to God and man, you cannot plead ignorance in your excuse. Your consciences will reproach you for your folly; and your children's children will curse you.

You are told, the schemes of our Congress will ruin you. You are told, they have not considered your interest; but have neglected or betrayed you. It is endeavored to make you look upon some of the wisest and best men in America as rogues and rebels. What will not wicked men attempt! They will scruple nothing that may serve their purposes. In truth, my friends, it is very unlikely any of us shall suffer much; but let the worst happen, the farmers will be better off than other people.

Many of those that made up the Congress have large possessions in land, and may, therefore, be looked upon as farmers themselves. Can it be supposed they would be careless about the farmer's interest, when they could not injure that, without injuring themselves? You see the absurdity of such a supposition.

The merchants, and a great part of the tradesmen, get their living by commerce. These are the people that would be hurt most by putting a stop to it. As to the farmers, "they furnish food for the merchant and mechanic; the raw materials for most manufactures are the produce of their industry." The merchants

and mechanics are already dependent upon the farmers for their food; and if the non-importation should continue any time, they would be dependent upon them for their clothes also.

It is a false assertion that the merchants have imported more than usual this year. That report has been raised by your enemies, to poison your minds with evil suspicions. If our disputes be not settled within eighteen months, the goods we have among us will be consumed; and then the materials for making clothes must be had from you. Manufactures must be promoted with vigor; and a high price will be given for your wool, flax, and hemp. It will be your interest to pay the greatest care and attention to your sheep. Increase and improve the breed as much as possible. *Kill them sparingly*, and such only as will not be of use toward the increase and improvement of them. In a few months we shall know what we have to trust to. If matters be not accommodated by spring, enlarge the quantity of your flax and hemp. You will experience the benefit of it. All those articles will be very much wanted; they will bring a great deal higher price than they used to do. And while you are supplying the wants of the community, you will be enriching yourselves.

Should we hereafter find it necessary to stop our exports, you can apply more of your land to raising flax and hemp, and less of it to wheat, rye, &c. By which means, you will not have any of those latter articles to lie upon hand. There will be a consumption for as much of the former as you can raise; and the great demand they will be in will make them very profitable to you.

Patience, good Mr. Critic! *Kill them sparingly*, I said. What objection have you to the phrase? You'll tell me, it is not *classical;* but I affirm it is, and if you will condescend to look into Mr. Johnson's dictionary, you will find I have his authority for it. Pray, then, for the future, *spare* your wit, upon such occasions, otherwise the world will not be disposed to *spare* its ridicule. And though the man that *spares* nobody, does not deserve to be *spared* himself, yet will I *spare* you, for the present, and proceed to things of more importance.

Pardon me, my friends, for taking up your time with this di

gression, but I could not forbear stepping out of the way a little to show the world I am as able a critic and as good a punster as Mr. Farmer. I now return to the main point with pleasure.

It is insinuated, "That the bustle about non-importation, &c., has its rise, not from patriotism, but selfishness;" and is only made by the merchants, that they may get a high price for their goods.

By this time, I flatter myself you are convinced, that we are not disputing about trifles. It has been clearly proved to you, that we are contending for every thing dear in life; and that the measures adopted by the Congress, are the only ones which can save us from ruin. This is sufficient to confute that insinuation. But to confirm it, let me observe to you, that the merchants have not been the foremost to bring about a non-importation. All the members of the Congress were unanimous in it; and *many* of them were not merchants. The warmest advocates for it, every where, are not concerned in trade: and, as I have before remarked, the traders will be the principal sufferers, if it should continue any time.

But, it is said, it will not continue, because, "when the stores are like to become empty, they will have weight enough to break up the agreement." I don't think they would attempt it: but, if they should, it is impossible, a few mercenary men could have influence enough to make the whole body of the people give up the only plan their circumstances admit of, for the preservation of their rights, and, of course, to forfeit all they have been so long striving to secure. The making of a non-importation agreement, did not depend upon the merchants; neither will the breaking of it depend upon them. The Congress have provided against the breach of the non-importation, by the non-consumption agreement. They have resolved, for themselves, and us their constituents, "not to purchase, nor use, any East India Tea whatsoever; nor any goods, wares, or merchandise, from Great Britain, or Ireland, imported after the first of December; nor molasses, &c., from the West Indies; nor wine, from Madeira, or the Western Islands; nor foreign Indigo." If we do not purchase, nor use, these things, the merchant will have no inducement to import them.

Hence, you may perceive, the reason of a non-consumption agreement. It is, to put it out of the power of dishonest men, to break the non-importation. *Is this a slavish regulation?* Or, is it a hardship upon us, to submit to it? Surely not. Every sensible, every good man, must approve of it. Whoever tries to disaffect you to it, ought to meet with your contempt.

Take notice, my friends, how these men are obliged to contradict themselves. In one place, you are told, "that all the bustle about non-importation, &c., has its rise, not from patriotism, but from selfishness;" or, in other words, that it is made by the merchants, to get a higher price for their goods. In another place, it is said, "that all we are doing, is instigated by some turbulent men, who want to establish a republican form of government among us."

The Congress is censured, for appointing committees to carry their measures into execution, and directing them, "to establish such further regulations, as they may think proper, for that purpose." Pray, did we not appoint our Delegates, to make regulations for us? What signified making them if they did not provide some persons, to see them executed? Must a few bad men be left to do what they please, contrary to the general sense of the people, without any persons to control them, or to look into their behaviour, and mark them out to the public? The man that desires to screen his knavery from the public eye, will answer, Yes: but the honest man, that is determined to do nothing hurtful to his country, and who is conscious his actions will bear the light, will heartily answer, No.

The high prices of goods are held up, to make you dissatisfied with the non-importation. If the argument on this head were true, it would be much better to subject yourselves to that disadvantage, for a time, than to bring upon yourselves all the mischiefs I have pointed out to you. Should you submit to the claims of the Parliament, you will not only be oppressed with the taxes upon your lands, &c., which I have already mentioned; but, you will have to pay heavy taxes upon all the goods we import from Great Britain. Large duties will be laid upon them at home; and the merchants, of course, will have a

greater price for them, or it would not be worth their while to carry on trade. The duty laid upon paper, glass, painter's colors, &c., was a beginning of this kind. The present duty upon tea, is preparatory to the imposition of duties upon all other articles. Do you think the Parliament would make such a serious matter of three pence a pound upon tea, if it intended to stop there? It is absurd to imagine it. You would soon find your mistake if you did. For fear of paying somewhat a higher price to the merchants, for a year or two, you would have to pay an endless list of taxes, within and without, as long as you live, and your children after you.

But, I trust, there is no danger that the prices of goods will rise much, if at all. The same Congress, that put a stop to the importation of them, has also forbid raising the prices of them. The same committee that is to regulate the one, is also to regulate the other. All care will be taken to give no cause of dissatisfaction. Confide in the men whom you, and the rest of the continent, have chosen the guardians of our common liberties. They are men of sense and virtue. They will do nothing but what is really necessary for the security of your lives and properties..

A sad pother is made, too, about prohibiting the exportation of sheep without excepting wethers. The poor Farmer is at a mighty loss to know how wethers can improve, or increase the breed. Truly I am not such a conjurer as to be able to inform him: but, if you please, my friends, I can give you two pretty good reasons why the Congress have not excepted wethers. One is, that, for some time, we shall have occasion for all the wool we can raise; so that it would be imprudent to export sheep of any kind. And the other is, that if you confine yourself chiefly to killing wethers, as you ought to do, you will have none to export. The gentleman who made the objection must have known these things as well as myself: but he loves to crack a jest, and could not pass by so fair an opportunity.

He takes notice of the first of these reasons himself; but, in order to weaken its force, cries, "Let me ask you, brother farmers, which of you would keep a flock of sheep, barely for the sake of their wool?" To this he answers, "Not one of you. If

you cannot sell your sheep to advantage, at a certain age, you cannot keep them to any profit." He thinks, because he calls you "brother farmers," that he can cajole you into believing what he pleases: but you are not the fools he takes you for. You know what is for your own interest better than he can tell you. And we all know, that, in a little time, if our affairs be not settled, the demand for wool will be very great. You will be able to obtain such a price, as will make it worth your while to bestow the greatest attention upon your sheep.

In another place this crafty writer tells you, that, "from the day our exports from this province are stopped, the farmers may date the commencement of their ruin." He asks, "Will the shopkeeper give you his goods? Will the weaver, shoemaker, blacksmith, carpenter, work for you without pay?" I make no doubt you are satisfied, from what I have said, that we shall never have occasion to stop our exports: but if things turn out contrary to our expectation, and it should become necessary to take that step, you will find no difficulty in getting what you want from the merchants and mechanics. They will not be able to do without you: and, consequently, they cannot refuse to supply you with what you stand in need of from them. Where will the merchants and mechanics get food and materials for clothing, if not from the farmer? And if they are dependent upon you, for those two grand supports of life, how can they withhold what they have from you?

I repeat it, my friends, we shall know how matters are like to be settled by the spring. If our disputes be not terminated to our satisfaction by that time, it will be your business to plant large parts of your lands with flax and hemp. Those articles will be wanted for manufactures; and they will yield you a greater profit than any thing else. In the interim, take good care of your sheep.

I heartily concur with the farmer in condemning all illicit trade. Perjury is, no doubt, a most heinous and detestable crime; and, for my part, I had rather suffer any thing, than have my wants relieved at the expense of truth and integrity. I know there are many pretended friends to liberty, who will

take offence at this declaration; but I speak the sentiments of my heart without reserve. I do not write for a party. I should scorn to be of any. All I say, is from a disinterested regard to the public weal.

The Congress, I am persuaded, were of the same opinion. They, like honest men, have, as much as was in their power, provided against this kind of trade, by agreeing to use no East India Tea whatever, after the first day of March next.

I shall now consider what has been said with respect to the payment of debts, and stopping of the courts of justice. Let what will happen, it will be your own faults, if you are not able to pay your debts. I have told you, in what manner you may make as much out of your lands as ever: by bestowing more of your attention upon raising flax and hemp, and less upon other things. Those articles (as I have more than once observed) will be in the highest demand. There will be no doing without them; and, of course, you will be able to get a very profitable price for them. How can it be, that the farmers should be at a loss for money to pay their debts at a time when the whole community must buy, not only their food, but all the materials for their clothes, from them? You have no reason to be uneasy on that account.

As to the courts of justice, no violence can, nor will, be used, to shut them up: but, if it should be found necessary, we may enter into solemn agreement, to cease from all litigations at law, except in particular cases. We may regulate law-suits in such a manner as to prevent any mischief that might arise from them. Restrictions may be laid on, to hinder merciless creditors from taking advantage of the times to oppress and ruin their debtors: but, at the same time, not to put it in the power of the debtors, *wantonly* to withhold their just dues from their creditors, when they are able to pay them. The law ruins many a good honest family. Disputes may be settled in a more friendly way. One or two virtuous neighbors may be chosen by each party to decide them. If the next Congress should think any regulations, concerning the courts of justice, requisite, they will make them; and proper persons will be appointed to carry them into execu

tion, and to see that no individuals deviate from them. It will be your duty to elect persons whose fidelity and zeal for your interest you can depend upon, to represent you in that Congress, which is to meet in Philadelphia in May ensuing.

The Farmer cries, "Tell me not of delegates, congresses, committees, mobs, riots, insurrections, associations: a plague on them all! Give me the steady, uniform, unbiassed, influence of the courts of justice. I have been happy under their protection; and, I trust in God, I shall be so again."

I say, tell me not of the British Commons, lords, ministry, ministerial tools, placemen, pensioners, parasites. I scorn to let my life and property depend upon the pleasure of any of them. Give me the steady, uniform, unshaken, security of constitutional freedom. Give me the right to be tried by a jury of my own neighbors; and to be taxed by my own representatives only. What will become of the law and courts of justice without this? The shadow may remain, but the substance will be gone. I would die to preserve the law upon a solid foundation: but take away liberty, and the foundation is destroyed.

The last thing I shall take notice of, is the complaint of the Farmer, that the Congress will not allow you "a dish of tea to please your wives with, nor a glass of Madeira to cheer your spirits, nor a spoonful of molasses to sweeten your buttermilk with." You would have a right to complain, if the use of these things had been forbidden to you alone: but it has been equally forbidden to all sorts of people. The members of the Congress, themselves, are no more permitted to please their wives with a dish of tea, nor to cheer their spirits with a glass of wine, nor to sweeten their buttermilk with a spoonful of molasses, than you are. They are upon a footing with you in this respect.

By him—but, with your leave, my friends, we'll try, if we can, to do without swearing. I say, it is enough to make a man mad, to hear such ridiculous quibbles offered, instead of sound argument: but so it is: the piece I am writing against contains nothing else.

When a man grows warm, he has a confounded itch for swearing. I have been going, above twenty times, to rap out an

oath, B*y him that made me:* but I have checked myself with the reflection, that it is rather *unmannerly* to treat him that made us with so much freedom.

Thus have I examined and confuted all the cavils and objections, of any consequence, stated by this Farmer. I have only passed over such things as are of little weight, the fallacy of which will easily appear. I have shown, that the Congress have neither "ignorantly misunderstood, carelessly neglected, nor basely betrayed you;" but that they have devised and recommended the *only* effectual means to preserve your invaluable privileges. I have proved that their measures cannot fail of success; but will procure the most speedy relief for us. I have also proved, that the farmers are the people who would suffer least, should we be obliged to carry all our measures into execution.

Will you, then, my friends, allow yourselves to be duped by this artful enemy? Will you follow his advices, disregard the authority of your Congress, and bring ruin on yourselves and posterity? Will you act in such a manner as to deserve the hatred and resentment of all the rest of America? I am sure you will not. I should be sorry to think any of my countrymen would be so mean, so blind to their own interest, so lost to every generous and manly feeling.

The sort of men I am opposing, give you fair words to persuade you to serve their own turns; but they think and speak of you, in common, in a very disrespectful manner. I have heard some of their party talk of you, as the most ignorant and mean-spirited set of people in the world. They say that you have no sense of honor or generosity; that you don't care a farthing about your country, children, nor any body else but yourselves: and that you are so ignorant, as not to be able to look beyond the present: so that if you can once be persuaded to believe the measures of your Congress will involve you in some little present perplexities, you will be glad to do any thing to avoid them; without considering the much greater miseries that await you at a little distance off. This is the character they give of you. Bad men are apt to paint others like

themselves. For my part, I will never entertain such an opinion of you, unless you should verify their words, by wilfully falling into the pit they have prepared for you. I flatter myself you will convince them of their error by showing the world you are capable of judging what is right and left, and have resolution to pursue it.

All I ask, is, that you will judge for *yourselves*. I don't desire you to take my opinion, nor any man's opinion, as the guide of your actions. I have stated a number of plain arguments. I have supported them with several well-known facts. It is your business to draw a conclusion, and act accordingly. I caution you, again and again, to beware of the men who advise you to forsake the plain path marked out for you by the Congress. They only mean to deceive and betray you. Our representatives in General Assembly cannot take any wiser or better course to settle our differences, than our representatives in the Continental Congress have taken. If you join with the rest of America in the same common measure, you will be sure to preserve your liberties inviolate: but if you separate from them, and seek for redress alone, and unseconded, you will certainly fall a prey to your enemies, and repent your folly as long as you live.

May God give you wisdom to see what is your true interest, and inspire you with becoming zeal for the cause of virtue and mankind.

THE FARMER REFUTED.

February 5, 1775.

The Farmer Refuted; or, a more comprehensive and impartial View of the Disputes between Great Britain and the Colonies. Intended as a further Vindication of the Congress, in answer to a Letter from a Westchester Farmer, entitled a View of the Controversy between Great Britain and her Colonies, including a mode of determining the present disputes, finally and effectually, &c. By a sincere friend to America. Tituli remedia pollicentur, sed pixedes ipsæ venena continent—The title promises remedies, but the box itself poisons. Printed by James Rivington, 1775.

ADVERTISEMENT.

The writer of the ensuing sheets can, with truth, say more than the generality of those who either espouse or oppose the claim of the British Parliament; which is, that *his* political opinions have been the result of mature deliberation and rational inquiry. They have not been influenced by prejudice, nor by any interested or ambitious motives. They are not the *spawn* of licentious clamors, or popular declamation; but the genuine offspring of sober reason. To those who are inclined to doubt *his* sincerity, *he* begs leave to recommend a little more *charity*. To those who are possessed of greater candor, and who yet may be disposed to ask,

How *he* can be sure that his opinions have not been influenced by prejudice? *He* answers, Because he remembers the time, when he had strong prejudices on the side *he* now opposes. His change of sentiment (*he* firmly believes), proceeded from the superior force of the arguments in favor of the American claims.

Though *he* is convinced there are too many, whose judgments are led captive by the most venal and despicable motives, yet *he* does not presume to think every man, who differs from him, either fool or knave. *He* is sensible there are men of parts and virtue, whose notions are entirely contrary to his. To imagine there are not wise and good men on both sides, must be the effect of a weak head, or a corrupt heart. *He* earnestly entreats the candid attention of the judicious and well-meaning; and hopes that what he has written may be read with as much impartiality, and as sincere a regard to truth, as the importance of the controversy demands.

SIR,—I resume my pen, in reply to the curious epistle you have been pleased to favor me with; and can assure you, that notwithstanding I am naturally of a grave and phlegmatic disposition, it has been the source of abundant merriment to me. The spirit that breathes throughout, is so rancorous, illiberal, and imperious; the argumentative part of it is so puerile and fallacious; the misrepresentations of facts, so palpable and flagrant; the criticisms so illiterate, trifling, and absurd; the conceits so low, sterile, and splenetic; that I will venture to pronounce it one of the most ludicrous performances which has been exhibited to public view during all the present controversy.

You have not even imposed on me the laborious task of pursuing you through a labyrinth of subtilty. You have not had ability sufficient, however violent your efforts, to try the *depths* of *sophistry;* but have barely skimmed along its *surface.* I should almost deem the animadversions I am going to make unnecessary, were it not that without them you might exult in a fancied victory, and arrogate to yourself imaginary trophies.

But, while I pass this judgment, it is not my intention to detract from your real merit. Candor obliges me to acknowledge that you possess every accomplishment of a polemical writer which may serve to dazzle and mislead superficial and vulgar minds: a peremptory, dictatorial air; a pert vivacity of expression; an inordinate passion for conceit; and a noble disdain of being fettered by the laws of truth. These, sir, are important qualifications; and these all unite in you in a very eminent

degree. So that, though you may never expect the plaudits of the judicious and discerning, you may console yourself with this assurance, that

> "Fools and witlings 'will' ev'ry sentence raise,
> And wonder, with a foolish face of praise."

You will, do doubt, be pleased with this further concession; to wit: that there is a striking resemblance between yourself and the renowned hero of the *Dunciad.* "*Pert dulness,*" seems to be the chief characteristic of your genius as well as his. I might point out a variety of circumstances in which you both agree; but I shall content myself with having given the hint, and leave it to yourself and to your *other** admirers, to prosecute a comparison, which will reflect so high lustre on the object of admiration.

Having thus briefly delivered my sentiments of your performance in general, I shall proceed to a particular examination of it, so far as may be requisite, towards placing it in that just point of light in which it ought to stand. I flatter myself, I shall find no difficulty in obviating the objections you have produced against the "Full Vindication;" and in showing that your "View of the Controversy between Great Britain and the Colonies," is not only partial and unjust, but diametrically opposite to the first principles of civil society. In doing this, I may occasionally interweave some strictures on the "Congress Canvassed."

First, then, I observe you endeavor to bring the imputation of inconsistency upon me, for writing "a long and elaborate pamphlet, to justify decisions, against whose influence none but *impotent* attempts had been made." A little attention would have unfolded the whole mystery. The reason assigned for what I did was, "lest those attempts," impotent as they were, in a general sense, "might yet have a tendency to mislead and prejudice the minds of a few." To prevent this, I wrote; and if I have been instrumental in preserving a single person from the baneful

* If we may judge from the style and turn of thought, you were pleased to be your own admirer in the *card in reply.*

effects of your insidious efforts, I shall not regret the time I have devoted to that laudable purpose. To confirm, or to add, one friend to his country, would afford a more refined and permament satisfaction to me, than could possibly animate the breast of the proudest ministerial minion, though elevated to the pinnacle of his wished-for preferment, and basking in the sunshine of court favor, as the despicable wages of his prostitution and servility.

You tell me, "I knew, that at the bar of impartial reason and common sense, the conduct of the Congress must be condemned; but was too much interested, too deeply engaged in party views and party heats to bear this with patience. *I* had no remedy (you say) but *artifice*, *sophistry*, *misrepresentation* and *abuse*." These you call "my weapons, and these I wield like an old experienced practitioner."

You ask, "Is this too heavy a charge? Can you lay your hand upon your heart, and upon your honor plead not guilty?" Yes, sir, I can do more. I can make a solemn appeal to the tribunal of Heaven, for the rectitude of my intentions. I can affirm, with the most scrupulous regard to truth, that I am of opinion the conduct of the Congress will bear the most impartial scrutiny; that I am not interested more than as the felicity and prosperity of this vast continent are concerned; and that I am perfectly disengaged from party of every kind.

Here, I expect you will exclaim, with your usual vehemence and indecency, "You are now espousing the cause of a party! It is the most daring impudence and falsehood to assert the contrary!" I can by no means conceive, that an opposition to a small herd of malcontents, among whom you have thought proper to rank, and a zealous attachment to the general measures of America, can be denominated the effect of a party spirit. You, sir, and your adherents, may be justly deemed a faction, because you compose a small number inimical to the common voice of your country. To determine the truth of this affirmation, it is necessary to take a comprehensive view of all the colonies.

Throughout your letter, you seem to consider me as a person who has acted, and is still acting, some part in the formation and

execution of public measures. You tacitly represent me as a Delegate, or member of the Committee. Whether this be done with a design to create a suspicion of my sincerity, or whether it be really your opinion, I know not. Perhaps it is from a complex motive. But I can assure you, if you are in earnest, that you are entirely mistaken. I have taken no other part in the affair, than that of defending the proceedings of the Congress, in conversation, and by the pamphlet I lately published. I approved of them, and thought an undeviating compliance with them essential to the preservation of American freedom. I shall, therefore, strenuously exert myself for the promotion of that valuable end.

In the field of literary contention, it is common to see the epithets *artifice*, *sophistry*, *misrepresentation*, and *abuse*, mutually bandied about. Whether they are more justly applicable to you, or to me, the public must decide. With respect to abuse, I make not the least doubt but every reader will allow you to surpass me in that.

Your envenomed pen has endeavored to sully the characters of our continental representatives with the presumptuous charges of ignorance, knavery, sedition, rebellion, treason, and tyranny —a tremendous catalogue, indeed! Nor have you treated their friends and adherents with any greater degree of complaisance. You have also delineated the mercantile body as entirely devoid of principle; and the several committees, as bands of robbers and petty tyrants. In short, except the few who are of your own complexion and stamp, "the *virtuous* friends of order and good government," you have not hesitated to exercise your obloquy and malevolence against the whole continent.

These things being considered, it is manifest, that in my answer to your "Free Thoughts," I treated you with more lenity than you had a right to expect; and did by no means observe the strict law of retaliation. None but yourself, will think you can, with the least propriety, complain of abuse.

I congratulate myself upon the sentiments you entertain of my last performance. Such is my opinion of your abilities as a critic, that I very much prefer your disapprobation to your ap-

plause. But with respect to the *brilliancy* of thought you speak of, give me leave to inform you, that I aimed at nothing more than justness of thought. I addressed myself to the judgment, not to the imagination. In works where fancy is predominant, as is the case with yours, there is a better opportunity for displaying brilliancy of thought, than where reason presides and directs. No wonder, then, if you have excelled me in this particular; since your plan is so much more favorable to it than mine.

I shall, for the present, pass over that part of your pamphlet, in which you endeavor to establish the supremacy of the British Parliament over America. After a proper eclaircissement of this point, I shall draw such inferences as will sap the foundation of every thing you have offered.

The first thing that presents itself, is a wish, that "I had, explicitly, declared to the public, my ideas of the *natural rights* of mankind. Man, in a state of nature (you say), may be considered as perfectly free from all restraint of *law* and *government;* and then, the weak must submit to the strong."

I shall, henceforth, begin to make some allowance for that enmity you have discovered to the *natural rights* of mankind. For, though ignorance of them, in this enlightened age, cannot be admitted as a sufficient excuse for you; yet it ought, in some measure, to extenuate your guilt. If you will follow my advice, there still may be hopes of your reformation. Apply yourself, without delay, to the study of the law of nature. I would recommend to your perusal, Grotius, Puffendorf, Locke, Montesquieu, and Burlemaqui. I might mention other excellent writers on this subject; but if you attend diligently to these, you will not require any others.

There is so strong a similitude between your political principles and those maintained by Mr. Hobbes, that, in judging from them, a person might very easily *mistake* you for a disciple of his. His opinion was exactly coincident with yours, relative to man in a state of nature. He held, as you do, that he was, then, perfectly free from all restraint of *law* and *government.* Moral obligation, according to him, is derived from the intro-

duction of civil society; and there is no virtue but what is purely artificial, the mere contrivance of politicians, for the maintenance of social intercourse. But the reason he run into this absurd and impious doctrine, was, that he disbelieved the existence of an intelligent, superintending principle, who is the Governor, and will be the final judge of the universe.

As you sometimes swear *by him that made you*, I conclude your sentiments do not correspond with his, in that which is the basis of the doctrine you both agree in: and this makes it impossible to imagine whence this congruity between you arises. To grant, that there is a supreme intelligence, who rules the world, and has established laws to regulate the actions of his creatures; and, still, to assert that man, in a state of nature, may be considered as perfectly free from all restraints of *law* and *government*, appears, to a common understanding, altogether irreconcilable.

Good and wise men, in all ages, have embraced a very dissimilar theory. They have supposed, that the Deity, from the relations we stand in to Himself, and to each other, has constituted an eternal and immutable law, which is indispensably obligatory upon all mankind, prior to any human institution whatever.

This is what is called the law of nature, "which, being coeval with mankind, and dictated by God himself, is, of course, superior in obligations to any other. It is binding over all the globe, in all countries, and at all times. No human laws are of any validity, if contrary to this; and such of them as are valid, derive all their authority, mediately, or immediately, from this original."—BLACKSTONE.

Upon this law depend the natural rights of mankind: the Supreme Being gave existence to man, together with the means of preserving and beautifying that existence. He endowed him with rational faculties, by the help of which, to discern and pursue such things as were consistent with his duty and interest; and invested him with an inviolable right to personal liberty and personal safety.

Hence, in a state of nature, no man had any *moral* power to deprive another of his life, limbs, property, or liberty; nor the

least authority to command, or exact, obedience from him, except that which arose from the ties of consanguinity.

Hence, also, the origin of all civil government, justly established, must be a voluntary compact between the rulers and the ruled; and must be liable to such limitations, as are necessary for the security of the *absolute rights* of the latter: for what original title can any man, or set of men, have to govern others, except their own consent? To usurp dominion over a people, in their own despite; or to grasp at a more extensive power than they are willing to intrust; is to violate that law of nature, which gives every man a right to his personal liberty; and can, therefore, confer no obligation to obedience.

"The principal aim of society, is to protect individuals in the enjoyment of those absolute rights which were vested in them by the immutable laws of nature; but which could not be preserved, in peace, without that mutual assistance and intercourse, which is gained by the institution of friendly and social communities. Hence it follows, that the first and primary end of human laws, is to maintain and regulate these *absolute rights* of individuals."—BLACKSTONE.

If we examine the pretensions of Parliament by this criterion, which is evidently a good one, we shall presently detect their injustice. First, they are subversive of our natural liberty, because an authority is assumed over us, which we by no means assent to. And, secondly, they divest us of that moral security, for our lives and properties, which we are entitled to, and which it is the primary end of society to bestow. For such security can never exist, while we have no part in making the laws that are to bind us; and while it may be the interest of our uncontrolled legislators to oppress us as much as possible.

To deny these principles, will be not less absurd, than to deny the plainest axioms. I shall not, therefore, attempt any further illustration of them.

You say, "When I assert, that since Americans have not, by any act of theirs, empowered the British Parliament to make laws for them, it follows they can have no just authority to do it; I advance a position subversive of that dependence, which

all colonies must, from their very nature, have on the mother country." The premises from which I drew this conclusion, are indisputable. You have not detected any fallacy in them; but endeavor to overthrow them by deducing a false and imaginary consequence. My principles admit the only dependence which can subsist, consistent with any idea of civil liberty, or with the future welfare of the British empire, as will appear hereafter.

"The dependence of the colonies on the mother country," you assert, "has ever been acknowledged. It is an impropriety of speech, to talk of an independent colony. The words independent and colony, convey contradictory ideas; much like *killing* and *sparing*.* As soon as a colony becomes independent on the parent state, it ceases to be any longer a colony, just as when you *kill* a sheep, you cease to *spare* him."

In what sense the dependence of the colonies on the mother country, has been acknowledged, will appear from those circumstances of their political history, which I shall, by and by, recite. The term colony, signifies nothing more than a body of people drawn from the mother country, to inhabit some distant place, or the country itself so inhabited. As to the degrees and modifications of that subordination, which is due to the parent state, these must depend upon other things besides the mere act of emigration, to inhabit or settle a distant country. These must be ascertained by the spirit of the constitution of the mother country; by the compacts for the purpose of colonizing; and, more especially, by the law of nature, and that *supreme law* of every society—*its own happiness.*

The idea of colony does not involve the idea of slavery. There is a wide difference between the dependence of a free people, and the submission of slaves. The former I allow; the

* I find, sir, you take a particular delight in persisting in absurdity. But if you are not totally incorrigible, the following interpretation of the unfortunate *adverb*, will secure it from any future stripes. It is taken from Johnson's Dictionary: SPARINGLY, not abundantly, *Bacon;* 2, frugally, parsimoniously; not lavishly. *Hayward;* with abstinence, *Atterbury;* cautiously, tenderly. Substitute *frugally*, or, *not lavishly*, for *sparingly*, and you must blush at your own conceit. "Kill your sheep *frugally*, or, *not lavishly*." Where is the impropriety of this?

latter I reject with disdain. Nor does the notion of a colony imply any subordination to our fellow-subjects in the parent state, while there is one common sovereign established. The dependence of the colonies on Great Britain, is an ambiguous and equivocal phrase. It may either mean dependence on the people of Great Britain, or on the king. In the former sense, it is absurd and unaccountable. In the latter, it is just and rational. No person will affirm that a French colony is independent on the parent state, though it acknowledge the king of France as rightful sovereign. Nor can it, with any greater propriety, be said, that an English colony is independent, while it bears allegiance to the king of Great Britain. The difference between their dependence, is only that which distinguishes civil liberty from slavery; and results from the different genius of the French and English constitutions.

But you deny that "we can be liege subjects to the king of Great Britain, while we disavow the authority of Parliament." You endeavor to prove it thus:* "The king of Great Britain was placed on the throne, by virtue of an act of Parliament: and he is king of America, by virtue of being king of Great Britain. He is, therefore, king of America by act of Parliament: and, if we disclaim that authority of Parliament which made him our king, we, in fact, reject him from being our king; for we disclaim that authority by which he is king at all."

Admitting that the king of Great Britain was enthroned by virtue of an act of Parliament; and that he is king of America, because he is king of Great Britain; yet, the act of Parliament is not the *efficient cause* of his being the king of America. It is only the *occasion* of it. He is king of America, by virtue of a compact between us and the kings of Great Britain. These colonies were planted and settled by the grants, and under the protection, of English kings, who entered into covenants with us, for themselves, their heirs, and successors; and it is from these covenants, that the duty of protection, on their part, and the duty of allegiance, on ours, arise.

* Vide "Congress Canvassed."

So that, to disclaim the authority of a British Parliament over us, does by no means imply the dereliction of our allegiance to British monarchs. Our compact takes no cognizance of the manner of their accession to the throne. It is sufficient for us that they are kings of England.

The most valid reasons can be assigned for our allegiance to the king of Great Britain; but not one of the least force, or plausibility, for our subjection to parliamentary decrees.

We hold our lands in America by virtue of charters from British monarchs; and are under no obligations to the Lords or Commons for them. Our title is similar, and equal, to that by which they possess their lands; and the king is the legal fountain of both. This is one grand source of our obligation to allegiance.

Another, and the principal source, is, that protection which we have hitherto enjoyed from the kings of Great Britain. Nothing is more common than to hear the votaries of Parliament urge the protection we have received from the mother country, as an argument for submission to its claims. But they entertain erroneous conceptions of the matter. The king himself, being the supreme executive magistrate, is regarded by the constitution as the supreme protector of the empire. For this purpose, he is the generalissimo, or first in military command. In him is vested the power of making war and peace; of raising armies, equipping fleets, and directing all their motions. He it is, that has defended us from our enemies; and to him alone we are obliged to render allegiance and submission.

The law of nature, and the British constitution, both confine allegiance to the person of the king; and found it upon the principle of protection. We may see the subject discussed at large, in the case of Calvin. The definition given of it by the learned Coke, is this: "Legiance is the mutual bond and obligation between the king and his subjects; whereby subjects are called his liege subjects, because they are bound to obey and serve him: and he is called their liege lord, because he is bound to maintain and defend them." Hence it is evident, that while we enjoy the protection of the king, it is incumbent upon us to

obey and serve him, without the interposition of parliamentary supremacy.

The right of Parliament to legislate for us, cannot be accounted for upon any reasonable grounds. The constitution of Great Britain is very properly called a limited monarchy; the people having reserved to themselves a share in the legislature, as a check upon the regal authority, to prevent its degenerating into despotism and tyranny. The very aim and intention of the democratical part, or the House of Commons, is to secure the rights of the people. Its very being depends upon those rights. Its whole power is derived from them, and must be terminated by them.

It is the unalienable birth-right of every Englishman, who can be considered as a *free agent*, to participate in framing the laws which are to bind him, either as to his life or property. But, as many inconveniences would result from the exercise of this right in person, it is appointed by the constitution that he shall delegate it to another. Hence, he is to give his vote in the election of some person he chooses to confide in as his representative. This right no power on earth can divest him of. It was enjoyed by his ancestors time immemorial; recognized and established by Magna Charta; and is essential to the existence of the constitution. Abolish this privilege, and the House of Commons is annihilated.

But what was the use and design of this privilege? To secure his life and property from the attacks of exorbitant power. And in what manner is this done? By giving him the election of those who are to have the disposal and regulation of them, and whose interest is in every respect connected with his.

The representative, in this case, is bound, by every possible tie, to consult the advantage of his constituents. Gratitude for the high and honorable trust reposed in him, demands a return of attention, and regard to the advancement of his happiness. Self-interest, that most powerful incentive of human actions, points and attracts towards the same object.

The duration of his trust is not perpetual, but must expire in a few years: and if he is desirous of the future favor of his

constituents, he must not abuse the present instance of it, but must pursue the end for which he enjoys it; otherwise he forfeits it, and defeats his own purpose. Besides, if he consent to any laws hurtful to his constituent, he is bound by the same, and must partake the disadvantage of them. His friends, relations, children, all whose ease and comfort are dear to him, will be in a like predicament. And should he concur in any flagrant acts of injustice or oppression, he will be within the reach of popular vengeance; and this will restrain him within due bounds.

To crown the whole; at the expiration of a few years, if their representatives have abused their trust, the people have it in their power to change them; and to elect others, who may be more faithful and more attached to their interest.

These securities, the most powerful that human affairs will admit of, have the people of Britain for the good deportment of their representatives towards them. They may have proved, at some times, and on some occasions, defective; but, upon the whole, they have been found sufficient.

When we ascribe to the British House of Commons a jurisdiction over the colonies, the scene is entirely reversed. All these kinds of security immediately disappear; no ties of gratitude or interest remain. Interest, indeed, may operate to our prejudice. To oppress us, may serve as a recommendation to their constituents, as well as an alleviation of their own incumbrances. The British patriots may, in time, be heard to court the gale of popular favor, by boasting their exploits in laying some new impositions on their American vassals; and, by that means, lessening the burthens of their friends and fellow-subjects.

But what merits still more serious attention is this: there seems to be already a jealousy of our dawning splendor. It is looked upon as portentous of approaching independence. This, we have reason to believe, is one of the principal incitements to the present rigorous and unconstitutional proceedings against us. And though it may have chiefly originated in the calumnies of designing men, yet it does not entirely depend upon adventitious or partial causes; but is also founded in the circumstances of our country and situation. The boundless extent of territory we

possess; the wholesome temperament of our climate; the luxuriance and fertility of our soil; the variety of our products; the rapidity of our population; the industry of our countrymen; and the commodiousness of our ports; naturally lead to a suspicion of independence, and would always have an influence pernicious to us. Jealousy is a predominant passion of human nature, and is a source of the greatest evils. Whenever it takes place between rulers and their subjects, it proves the bane of civil society.

The experience of past ages may inform us, that when the circumstances of a people render them distressed, their rulers generally recur to severe, cruel, and oppressive measures. Instead of endeavoring to establish their authority in the *affection* of their subjects, they think they have no security but in their *fear*. They do not aim at gaining their fidelity and obedience, by making them flourishing, prosperous, and happy; but by rendering them abject and dispirited. They think it necessary to intimidate and awe them; to make every accession to their own power, and to impair the people's as much as possible.

One great engine to effect this in America, would be a large standing army, maintained out of our own pockets, to be at the devotion of our oppressors. This would be introduced under pretext of defending us; but, in fact, to make our bondage and misery complete.

We might soon expect the martial law, universally prevalent to the abolition of trials by juries, the *Habeas Corpus* act, and every other bulwark of personal safety, in order to overawe the honest assertors of their country's cause. A numerous train of *court dependents* would be created and supported at our expense. The value of all our possessions, by a complication of extorsive measures, would be gradually depreciated, till it became a mere shadow.

This will be called too high wrought a picture, a phantom of my own deluded imagination. The highest eulogies will be lavished on the wisdom and justice of the British nation. But deplorable is the condition of that people, who have nothing else than the wisdom and justice of another to depend upon.

"Political writers," says a celebrated author,* "have established it as a maxim, that, in contriving any system of government, and fixing the several checks and controls of the constitution, *every man* ought to be supposed a *knave;* and to have no other end, in all his actions, but *private interest.* By this interest we must govern him; and, by means of it, *make him co-operate to public good,* notwithstanding his insatiable avarice and ambition. Without this, we shall in vain boast of the advantages of *any constitution;* and shall find, in the end, that we have no security for our liberties and possessions, except the *good will* of our rulers; that is, we should have *no security at all.*

"It is, therefore, a just *political* maxim, that *every man must be supposed a knave.* Though, at the same time, it appears somewhat strange, that a maxim should be true in politics which is false in fact. But to satisfy us on this head, we may consider that men are generally more honest in a private than in a public capacity; and will go greater lengths to serve a party than when their own private interest is alone concerned. Honor is a great check upon mankind. But, where a considerable body of men act together, this check is in a great measure removed, since a man is sure to be approved by his own party for what promotes the common interest; and he soon learns to despise the clamors of adversaries. To this we may add, that every court or senate is determined by the greater number of voices; so that, if self-interest influences only the majority (as it will always do), the whole senate follows the allurements of this separate interest; and acts as if it contained not one member who had any regard to public interest and liberty." What additional force do these observations acquire, when applied to the dominion of one community over another!

From what has been said, it is plain, that we are without those checks upon the representatives of Great Britain which alone can make them answer the end of their appointment with respect to us; which is the preservation of the rights, and the advancement of the happiness of the governed. The direct and inevitable consequence is, *they have no right to govern us.*

* Hume, vol. 1. Essay 5.

Let us examine it in another light. The House of Commons receives all its authority from its electors, in consequence of the right they have to a share in the legislature. Its electors are freeholders, citizens, and others, in Great Britain. It follows, therefore, that all its authority is confined to Great Britain. This is demonstrative. Sophistry, by an artful play of ambiguous terms, may perplex and obscure it; but reason can never confute it. The power which one society bestows upon any man, or body of men, can never extend beyond its own limits. The people of Great Britain may confer an authority over themselves, but they can never confer any over the people of America, because it is impossible for them to give *that* to another which they never possessed themselves. Now, I should be glad to see an attempt to prove that a freeholder, citizen, or any other man in Great Britain, has any inherent right to the life, property, or liberty, of a freeholder, citizen, or any other man in America. He can have no original and intrinsic right, because nature has distributed an equality of rights to every man. He can have no secondary or derivative right, because the only thing which could give him that is wanting—the consent of the natural proprietor. It is incumbent upon you to demonstrate the existence of such a right, or any thing else you may produce will be of little avail. I do not expect you will be discouraged at the apparent difficulty. It is the peculiar province of an enterprising genius to surmount the greatest obstacles, and you have discovered an admirable dexterity in this way. You have put to flight some of my best arguments, with no greater pains than a few positive assertions, and as many paltry witticisms; and you become altogether irresistible by adding, with a proper degree of confidence, *You know the case to be as I state it.*

When I say that the authority of Parliament is confined to Great Britain, I speak of it in its primitive and original state. Parliament may acquire an incidental influence over others, but this must be by their own free consent; for, without this, any power it might exercise would be mere usurpation, and by no means a just authority.

The best way of determining disputes, and of investigating

truth, is by descending to elementary principles. Any other method may only bewilder and misguide the understanding, but this will soon lead to a convincing and satisfactory crisis. By observing this method, we shall learn the following truths.

That the existence of the House of Commons depends upon the people's right to a share in the legislature, which is exercised by means of electing the members of that house. That the end and intention of this right is to preserve the life, property, and liberty of the subject, from the encroachments of oppression and tyranny.

That this end is accomplished, by means of the *intimate connection* of interest, between those members and their constituents, the people of Great Britain.

That with respect to the people of America, there is no such *intimate connection* of interest, but the contrary; and therefore that end could not be answered to them; consequently, the *end* ceasing, the *means* must cease also.

The House of Commons derives all its power from its own real constituents, who are the people of Great Britain; and that, therefore, it has no power but what they *originally* had in themselves.

That they had no original right to the life, property, or liberty, of Americans; nor any acquired from their own consent; and of course could give no authority over them.

That, therefore, the House of Commons has no such authority.

What need is there of a multiplicity of arguments, or a long chain of reasoning, to inculcate these luminous principles? They speak the plainest language to every man of common sense; and must carry conviction where the mental eye is not bedimmed by the mist of prejudice, partiality, ambition, or avarice. Let us now see what has been offered in opposition to them.

But, by the way, let me remark, that I have levelled my battery chiefly against the authority of the House of Commons over America; because, if that be proved not to exist, the dispute is at an end. The efficacy of Acts of Parliament, de-

pends upon the due authority of the respective branches, to bind the different orders and ranks of the nation.

It is said, that "in every government there must be a supreme absolute authority lodged somewhere. In arbitrary governments, this power is in the monarch; in aristocratical governments, in the nobles; in democratical, in the people, or the deputies of their electing. Our own government, being a mixture of all these kinds, the supreme authority is vested in the king, nobles, and people; *i. e.*, the King, House of Lords, and House of Commons *elected by the people.* The supreme authority extends as far as the British dominions extend. To suppose a part of the British dominions, which is not subject to the power of the British legislature, is no better sense than to suppose a country, at one and the same time, to be, and not to be, a part of the British dominions. If, therefore, the colony of New-York is a part of the British dominions, the colony of New-York is subject to, and dependent on, the supreme legislative authority of Great Britain."

This argument is the most specious of any the advocates for parliamentary supremacy are able to produce; but when we come to anatomize, and closely examine, every part of it, we shall discover, that it is entirely composed of distorted and misapplied principles, together with ambiguous and equivocal terms.

The first branch is, That "in every government, there must be a supreme, absolute authority lodged somewhere." This position, when properly explained, is evidently just. In every civil society, there must be a supreme power, to which all the members of that society are subject; for, otherwise, there could be no supremacy, or subordination; that is, no government at all. But no use can be made of this principle beyond matter of fact. To infer from thence, that unless a supreme absolute authority be vested in one part of an empire over all the other parts, there can be no government in the whole, is false and absurd. Each branch may enjoy a distinct, complete legislature, and still good government may be preserved every where. It is in vain to assert, that two or more distinct legislatures cannot

exist in the same State. If, by the same State, be meant the same individual community, it is true. Thus, for instance, there cannot be two supreme legislatures in Great Britain, nor two in New-York. But if, by the same State, be understood a number of individual societies, or bodies politic, united under one common head, then I maintain, that there may be one distinct, complete legislature in each. Thus there may be one in Great Britain, another in Ireland, and another in New-York; and still these several parts may form but one State. In order to this, there must indeed be some connecting, pervading principle; but this is found in the person and prerogative of the king. He it is, that conjoins all these individual societies into one great body politic. He it is, that is to preserve their mutual connection and dependence, and make them all co-operate to one common end, the general good. His power is equal to the purpose; and his interest binds him to the due prosecution of it.

Those who aver, that the independency of America on the British Parliament, implies two sovereign authorities in the same State, deceive themselves, or wish to deceive others, in two ways; by confounding the idea of the same State with that of the same individual society; and by losing sight of that share which the king has in the sovereignty, both of Great Britain and America. Perhaps, indeed, it may with propriety be said, that the king is the only sovereign of the empire. The part which the people have in the legislature, may more justly be considered as a limitation of the sovereign authority, to prevent its being exercised in an oppressive and despotic manner. Monarchy is universally allowed to predominate in the constitution. In this view, there is not the least absurdity in the supposition, that Americans have a right to a limitation, similar to that of the people of Great Britain. At any rate, there can never be said to be two sovereign powers in the same State, while *one common king* is acknowledged by every member of it.

Let us, for a moment, imagine the legislature of New-York independent on that of Great Britain. Where would be the mighty inconvenience? How would government be frustrated, or obstructed, by this means? In what manner would they

interfere with each other? In none, that I can perceive. The affairs of government might be conducted with the greatest harmony, and, by the mediation of the king, directed to the same end. He (as I before observed) will be the great connecting principle. The several parts of the empire, though otherwise independent on each other, will all be dependent on him. He must guide the vast and complicated machine of government, to the reciprocal advantage of all his dominions. There is not the least contradiction in this; no *imperium in imperio*, as is maintained: for the power of every distinct branch will be limited to itself; and the authority of his Majesty over the whole, will, like a central force, attract them all to the same point.

The second part of your paragraph, is this: "In arbitrary governments, this (supreme absolute) power is in the monarch; in aristocratical governments, in the nobles; in democratical, in the people, or the deputies of their electing. Our own government, being a mixture of all these kinds, the supreme authority is vested in the king, nobles, and people; that is in the King, House of Lords, and House of Commons elected by the people."

You are mistaken when you confine arbitrary government to a monarchy. It is not the supreme power being placed in one, instead of many, that discriminates an arbitrary from a free government. When any people are ruled by laws, in framing which they have no part, that are to bind them, to all intents and purposes, without, in the same manner, binding the legislators themselves, they are, in the strictest sense, slaves; and the government, with respect to them, is despotic. Great Britain is itself a free country; but it is only so, because its inhabitants have a share in the legislature. If they were once divested of that they would cease to be free. So that, if its jurisdiction be extended over other countries that have no actual share in its legislature, it becomes arbitrary to them; because they are destitute of those checks and controls which constitute that *moral* security which is the very essence of civil liberty.

I will go farther, and assert, that the authority of the British Parliament over America, would, in all probability, be a more

intolerable and excessive species of despotism than an absolute monarchy.* The power of an absolute prince is not temporary, but perpetual. He is under no temptation to purchase the favor of one part of his dominions at the expense of another; but it is his interest to treat them all upon the same footing. Very different is the case with regard to the Parliament. The Lords and Commons, both, have a private and separate interest to pursue. They must be wonderfully disinterested, if they would not make us bear a very disproportional part of the public burthens, to avoid them as much as possible themselves. The people of Britain must, *in reality*, be an order of superior beings, not cast in the same mould with the common degenerate race of mortals, if the sacrifice of our interest and ease to theirs, be not extremely welcome and alluring. But should experience teach us, that they are only mere mortals, fonder of themselves than their neighbors; the philanthropy and integrity of their representatives will be of a transcendent and matchless nature, should they not gratify the natural propensities of their constituents, in order to ingratiate themselves, and enhance their popularity.

When you say, that "our government, being a mixture of all these kinds, the supreme authority is vested in the king, nobles, and *people;* that is, the King, House of Lords, and House of Commons *elected by the people;*" you speak unintelligibly. A person who had not read any more of your pamphlet than this passage, would have concluded you were speaking of our Governor, Council, and Assembly, whom, by a rhetorical

* Mr. Hume, in enumerating these political maxims, which will be eternally true, speaks thus: "It may easily be observed, that though free governments have been commonly the most happy, for those who partake of their freedom, yet are they most ruinous and oppressive to *their provinces.*" He goes on to give many solid reasons for this; and, among other things, observes, that "a free state necessarily makes a great distinction (between herself and the provinces), and must continue to do so, till men learn to love their neighbors as well as themselves." He confirms his reflections by many historical facts, and concludes them thus: "Compare the *pais conquis* of France with Ireland, and you will be convinced of this truth; though this latter kingdom being in a good measure peopled from England, possesses so many rights and privileges as should naturally make it challenge better treatment."

figure, you styled, "king, nobles, and people." For how could it be imagined, you would call any government *our own*, with this description, that it is vested in the king, nobles, and *people*, in which, *our own people* have not the *least share?* If our own government be vested in the king, nobles, and people, how comes it to pass, that *our own* people have no part in it? The resolution of these questions will afford a proper field in which to display your ingenuity. You must endeavor to transmute the people of America into those of Great Britain, or your description will be considered as mere jargon, by every man of sense. Perhaps you may be able, in imitation of that celebrated sophist Spinosa, to prove, that they are only *modally* different, but *substantially* the same. Or, if you please, that syllogism of the schools, by which a *man* is proved a *horse*, may serve as an excellent model. If I recollect right, it is in these words:

Homo est animal:
Equus est animal:
Ergo, homo est equus.

which is rendered thus: A man is an *animal:* A horse is an *animal: Therefore a man is a horse.* By the same method of argumentation, you may prove, that, as Britons and Americans are *generically* the same, they are *numerically* so, likewise, as your description implies. You may form a syllogism thus:

Britons are men:
Americans are the *same:*
Therefore, Britons and Americans are the *same.*

This argument will be as good as the one I am next going to examine.

"The supreme authority," you say, "extends as far as the *British* dominions extend. To suppose a part of the *British* dominions, which is not subject to the power of the British legislature, is no better sense, than to suppose a country at one and the same time, to be, and not to be, a part of the *British* dominions. If, therefore, the colony of New-York be a part of the

British dominions, the colony of New-York is subject and dependent on the supreme legislative authority of Great Britain."

By "this supreme authority," I suppose you mean the Parliament of Great Britain. I deny that it extends as far as the *British* dominions extend; and I have given many substantial reasons for this denial: whereas you have never offered any to prove that it does. You have begged the question, and taken that for granted, which is the very point in debate. As to your general position, that there must be a supreme absolute authority lodged somewhere, I have explained in what sense it ought to be understood; and shown, that the several parts of the empire may each enjoy a separate independent legislature, with regard to each other, under one common head, the king.

The seeming proof you have subjoined, is entirely fallacious; and depends upon the use of the terms *British* dominions, and *British* legislature, in an *equivocal* sense. The former may either signify countries subject to the *king*, or to the *legislature* of Great Britain. When we say French dominions, we mean countries subject to the king of France. In like manner, when we say British dominions, the most proper signification is, countries subject to the king of Great Britain. At least there is no impropriety in using it in this sense.*

If, by the British legislature, you mean nothing more than the Parliament of Great Britain, it is well; but if you affix a different idea to it, you are not *arbitrarily* to impose it upon others. If there be any *chimera* in your fond imagination, which you express by that term, you must allow others the liberty to think it such. In short, if, by the term, you mean an authority resident in one part of his Majesty's dominions, to make laws for every other part of them; you ought not to apply it in this sense, till you have proved that such an authority does really exist; especially in a controversy about that very matter.

By the British dominions, I mean the countries subject to his

* Or, if there is, all your objection amounts to this: that we have adopted an improper mode of expression; and, for the future, we may, in the language of the honorable House of Assembly, call the colonies his Majesty's American dominions.

Britannic Majesty, in his royal capacity. By the British legislature, I will suppose you intend simply the Parliament of Great Britain. Let us now try whether, "to suppose there may be a part of his Britannic Majesty's dominions, which is not subject to the Parliament, be no better sense, than to suppose a country, at one and the same time, to be, and not to be, a part of the British dominions." It is impossible for any thing *to be*, and *not to be;* but it involves no contradictions to say, that a country may be in subjection to his Britannic Majesty, and, in that sense, a part of the British dominions, without being at all dependent on the Parliament of Great Britain.* The colony of New-York, therefore, may be a branch of the British empire, though not subordinate to the legislative authority of Britain.

Upon the whole, if, by the British dominions, you mean territories subject to the Parliament, you adhere to your usual fallacy, and suppose what you are bound to prove. I deny that we are dependent on the legislature of Great Britain; and yet I maintain that we are a part of the British empire; but in this sense only, as being the free born subjects of his Britannic Majesty.

Thus I have fully examined that argument, which is esteemed the bulwark of the doctrine of Parliamentary supremacy; and, I flatter myself, clearly refuted it. The main pillar being now broken down, the whole structure may easily be demolished. I shall, therefore, proceed with alacrity in the completion of the work. But it is worthy of observation, that a cause must be extremely weak, which admits of no better supports.

Your next argument (if it deserve the name) is this: "Legislation is not an inherent right in the colonies: many colonies

* I doubt not, you will here be disposed to cavil, by urging, that if we deny the authority of Parliament, we also reject his Britannic Majesty, since he composes a part of it: but, let it be considered, that the Parliament, as such, is a political institution, not a *physical* being. We may deny his Majesty, in his political capacity, as a part of the legislature of Great Britain, and yet acknowledge him in a similar political capacity, as a part of the legislature of New-York. This is an obvious distinction, and cannot be contested, without an affront to common sense.

have been established and subsisted long without it. The Roman colonies had no legislative authority. It was not till the latter period of their republic, that the privileges of Roman citizens, among which, that of voting in Assemblies of the people, at Rome, was a principal one, were extended to the inhabitants of Italy. All the laws of the empire were enacted at Rome. Neither their colonies nor conquered countries, had any thing to do with legislation."

The fundamental source of all your errors, sophisms, and false reasonings, is a total ignorance of the natural rights of mankind. Were you once to become acquainted with these, you could never entertain a thought, that all men are not, by nature, entitled to a parity of privileges. You would be convinced, that natural liberty is a gift of the beneficent Creator, to the whole human race; and that civil liberty is founded in that; and cannot be wrested from any people, without the most manifest violation of justice. *Civil liberty is only natural liberty, modified and secured by the sanctions of civil society.* It is not a thing, in its own nature, precarious and dependent on human will and caprice; but it is conformable to the constitution of man, as well as necessary to the *well-being* of society.

Upon this principle, colonists, as well as other men, have a right to civil liberty. For, if it be conducive to the happiness of society (and reason and experience testify that it is), it is evident, that every society, of whatsoever kind, has an absolute and perfect right to it, which can never be withheld without cruelty and injustice. The practice* of Rome towards her colonies, cannot afford the shadow of an argument against this. That mistress of the world was often unjust. And the treatment of her dependent provinces, is one of the greatest blemishes in her history. Through the want of that civil liberty for which we are so warmly contending, they groaned under every species of wanton oppression. If we are wise, we shall take warning from

* If her practice proves any thing, it equally proves, that she had a right to plunder them as much as possible. This doctrine, I presume, will not be disagreeable to some ears. There are many who would rejoice to see America plundered in a like manner, provided they could be appointed the instruments.

thence; and consider a like state of dependence, as more to be dreaded than pestilence and famine.

The right of colonists, therefore, to exercise a legislative power, is an inherent right. It is founded upon the rights of all men to freedom and happiness. For civil liberty cannot possibly have any existence, where the society, for whom laws are made, have no share in making them; and where the interest of their legislators is not inseparably interwoven with theirs. Before you asserted, that the right of legislation was derived "from the indulgence or grant of the parent state," you should have proved two things:—that all men have not a natural right to freedom; and that civil liberty is not advantageous to society.

"The position," you say, "that we are bound by no laws but those to which we have assented, either by ourselves, or by our representatives, is a novel position, unsupported by any authoritative record of the British constitution, ancient or modern. It is republican in its very nature; and tends to the utter subversion of the English monarchy.

"This position has arisen from an artful change of terms. To say, that an Englishman is not bound by any laws but those to which the representatives of the nation have given their consent, is to say what is true. But to say that an Englishman is bound by no laws but those to which he hath consented, in person, or by *his* representative, is saying what never was true, and never can be true. A great part of the people have no vote in the choice of representatives; and, therefore, are governed by laws to which they never consented, either by themselves, or by *their* representatives."

The foundation of the English constitution rests upon this principle; that no laws have any validity or binding force, without the consent and approbation of the *people*, given in the persons of *their* representatives, periodically elected by *themselves*. This constitutes the democratical part of the government.

It is also undeniably certain, that no Englishman, who can be deemed *a free agent* in a *political* view, can be bound by laws, to which he has not consented, either in person, or by *his* representative. Or, in other words, every Englishman (exclusive of

the mercantile and trading part of the nation) who possesses a freehold to the value of forty shillings per annum, has a right to share in the legislature; which he exercises, by giving his vote in the election of some person he approves of as his representative.

"The true reason," says Blackstone, "of requiring any qualification, with regard to property in voters, is to exclude such persons as are *in so mean a situation*, that they are esteemed to have *no will* of their own. If these persons had votes, they would be tempted to dispose of them, under some undue influence or other. This would give a great, an artful, or a wealthy man, a larger share in elections than is consistent with general liberty. If it were probable that every man would give his vote freely, and without influence of any kind; then, upon the true theory and genuine principles of liberty, every member of the community, however poor, should have a vote in electing those delegates, to whose charge is committed the disposal of his property, his liberty, and life. But since that can hardly be expected, in persons of indigent fortunes, or such as are under the immediate dominion of others; all popular States have been obliged to establish certain qualifications, whereby some, who are suspected to have no will of their own, are excluded from voting; in order to set other individuals, whose wills may be supposed independent, more thoroughly upon a level with each other."

Hence, it appears, that such "of the people as have no vote in the choice of representatives, and, therefore, are governed by laws to which they have not consented, either by themselves or by their representatives," are only those "persons, who are *in so mean a situation*, that they are esteemed to have *no will* of their own." Every *free agent*, every free man, possessing a freehold of forty shillings per annum, is, by the British constitution, entitled to a vote in the election of those who are invested with the disposal of his life, his liberty, and property.

It is therefore evident, to a demonstration, that unless a *free agent* in America be permitted to enjoy the same privilege, we are entirely stripped of the benefits of the constitution, and

precipitated into an abyss of slavery. For, we are deprived of that immunity which is the grand pillar and support of freedom. And this cannot be done without a direct violation of the constitution, which decrees to every *free agent*, a share in the legislature.

It deserves to be remarked here, that those very persons in Great Britain, who are *in so mean a situation* as to be excluded from a part in elections, are in more eligible circumstances than they would be in who have every necessary qualification.

They compose a part of that society to whose government they are subject. They are nourished and maintained by it; and partake in every other emolument for which they are qualified. They have, no doubt, most of them, relations and connections among those who are privileged to vote; and, by that means, are not entirely without influence in the appointment of their rulers. They are not governed by laws made expressly and exclusively for them; but by the general laws of their country, equally obligatory on the legal electors, and on the law makers themselves. So that that they have nearly the same security against oppression, which the body of the people have.

To this we may add, that they are only under a conditional prohibition, which industry and good fortune may remove. They may, one day, accumulate a sufficient property to enable them to emerge out of their present state. Or, should they die in it, their situation is not entailed upon their posterity by a fixed and irremediable doom. They, agreeably to the ordinary vicissitudes of human affairs, may acquire what their parents were deficient in.

These considerations plainly show, that the people in America, of all ranks and conditions, opulent as well as indigent (if subjected to the British Parliament), would be upon a less favorable footing than that part of the people of Great Britain, who are *in so mean a situation*, that they are supposed to have no will of their own. The injustice of this, must be evident to every man of common sense.

I shall now proceed to take such a survey of the political his-

tory of the colonies as may be necessary to cast a full light upon their present contest; and, at the same time, to give the public a just conception of the profound and comprehensive knowledge you have of the dispute, the fairness and candor with which you have represented facts, and the immaculate purity of your intentions.

But, previous to this, the following observations may not be destitute of utility.

His Holiness the Pope, by virtue of being Christ's Vicegerent upon earth, piously assumed to himself a right to dispose of the territories of infidels as he thought fit. And in process of time all Christian princes learned to imitate his example, very liberally giving and granting away the dominions and property of Pagan countries. They did not seem to be satisfied with the title which Christianity gave them to the next world only, but chose to infer from thence an exclusive right to this world also.

I must refer it to sounder casuists than I am to determine concerning the consistency or justice of this principle. It is sufficient for my purpose to observe that it is the only foundation upon which Queen Elizabeth and her successors undertook to dispose of the lands in America. Whatever right, therefore, we may suppose to have existed, it was vested entirely in the crown; the nation had no concern in it. It is an invariable maxim, that every acquisition of foreign territory is at the absolute disposal of the king; and unless he annex it to the realm, it is no part of it. And if it be once alienated, it can never be united to it without the concurrence of the proprietors.

Were there any room to doubt that the sole right of the territories in America was vested in the crown, a convincing argument might be drawn from the principle of English *tenure*. By means of the *feudal* system the king became, and still continues to be, in a legal sense, the original proprietor, or lord paramount, of all the lands in England.* Agreeably to this rule, he must have been the original proprietor of all the lands in America, and

* See Blackstone, vol. 1.

was therefore authorized to dispose of them in what manner he thought proper.

The great inquiry, therefore, is concerning the terms on which these lands were really dispensed.

"The first charter granted by the crown, for the purpose of colonization, is" not "that of King James the first, to the two Virginia companies," as you assert. Previous to that, there was one from Queen Elizabeth to Sir Walter Raleigh, for all the territory he might discover and plant between the thirty-third and fortieth degrees of north latitude, which was not actually possessed by any Christian prince, or inhabited by any Christian people; to have, hold, occupy, and enjoy the same, to him, his heirs and assigns for ever, with all *prerogatives*, *jurisdictions*, *royalties*, *privileges*, *franchises*, thereunto belonging, by sea or land; only reserving to herself, her heirs and successors, the fifth part of all gold and silver *ore* that might be acquired in those regions.

By this grant, Queen Elizabeth relinquished the whole legislative and executive power to Sir Walter, upon no other condition than simple homage, and the above-mentioned fifth part of gold and silver ore; which shows that the crown considered itself as invested with the absolute and entire disposal of the territories in America; and the passive conduct of the nation declares its acquiescence in the same.

After many successless efforts to plant a colony in Virginia, this charter was forfeited and abrogated by the attainder of Sir Walter Raleigh; and then succeeded that of King James the first, to the two Virginia companies, dated the 10th of April, 1606. This was afterwards altered and improved by a second charter, issued in 1609. There was also a third, dated March 12, 1611–12. The mention of this last would not have answered your purpose, and, therefore, you chose to pass it over in silence.

In neither of these three, is there the least reservation made of any authority to Parliament. The colonies are considered in them as entirely without the realm, and, consequently, without the jurisdiction of its legislature.

In the first charter from King James, there are the following clauses:

"We do ordain, establish, and decree, &c., that each of the said colonies shall have a council, which shall govern and order all matters and all causes, which shall arise, grow, or happen to, or within the same; according to such *laws*, *ordinances*, and *instructions*, as shall be, in that behalf, given and signed with our hand, or sign manual, and pass under the privy seal of our realm of England."

"And that, also, there shall be a council established here in England, which shall consist of thirteen persons, to be for that purpose appointed; which shall have the superior managing and direction *only* of, and for, all matters, that shall or may concern the government of the said several colonies."

"Also, we do for us, our heirs, &c., declare, that all and every the persons, being our subjects, which shall dwell and inhabit within every, or any, the said several colonies, and every of their children, which shall happen to be born within any of the said several colonies, shall have and enjoy all *liberties*, *franchises*, and *immunities*, within any of our *other* dominions, to all intents and purposes, *as if they had been abiding and born within our realm of England.*"

This latter declaration (to which there is one correspondent, or similar, in every American grant), plainly indicates, that it was not the royal intention to comprise the colonies within the realm of England. The powers committed to the two councils, demonstrate the same; for they would be incompatible with the idea of any other than distinct States.

The King could neither exercise, himself, nor empower others to exercise, such an authority as was really vested in the council, without a breach of the Constitution, if the colonies had been a part of the realm, or within the jurisdiction of Parliament. Such an exertion of power would have been unconstitutional and illegal, and of course inadmissible: but we find it was never called in question by the legislature; and we may conclude from thence, that America was universally considered as being without the jurisdiction of Parliament.

The second charter explains and amplifies the privileges of the company, erecting them into "one body or commonalty per-

petual;" and confirming to them the property of their former territories, with the addition of all the islands lying within one hundred miles of the shores of both seas; together with all "*commodities*, *jurisdictions*, *royalties*, *privileges*, *franchises*, and *pre-eminences*," to be held by the king, his heirs and successors, "in free and common soccage." They were only to pay one fifth part of all the gold and silver ore they might find, in lieu of all *services*.

Their government was vested in a council, first appointed by the king; which, upon every necessary occasion, was to be summoned together by the company's treasurer. But immediately after the persons appointed are named in the charter, it is declared, that "the said council and treasurer, or any of them, shall be henceforth "*nominated*, *chosen*, *continued*, *displaced*, *changed*, *altered*, or *supplied*, as death, or other several occasions shall require, *out of* the company of the said adventurers, by the *voice* of the greater part of the said company and adventurers;" every member, newly elected, to be sworn into office by the Lord Chancellor.

This council had "full power and authority to make, ordain, and establish, all manner of *orders*, *laws*, *directions*, *instructions*, *forms* and *ceremonies*, of government and magistracy, fit and necessary for, and concerning, the government of the said colony; and the same to abrogate, revoke, or change, at all times, not only within the precincts of the said colony, but also on the seas, in going or coming, to or from the said colony."

This charter is also silent with respect to Parliament; the authority of which is evidently precluded by the whole tenor of it.

You, sir, took no notice of the circumstance, that the council was to be *nominated*, *chosen*, *continued*, *&c.*, *out of* the Virginia company itself, agreeably to the voice of the majority. You omitted this, and gave quite a different turn to the matter: but herein you acted not at all discordant with your usual practice. Nor did you esteem it politic to transcribe the following clause: "that the said company, and every of them, their factors and assigns, shall be free of all subsidies and customs in Virginia,

for the space of one and twenty years; *and from all taxes and impositions for ever*, upon any goods or merchandises, at any time or times hereafter, either upon importation thither, or exportation from thence."

The third charter is a still farther enlargement of their territory and privileges, and is that by which their present form of government is modelled. The following extract will show the nature of it. "We do hereby ordain and grant, that the said treasurer and company of adventurers and planters aforesaid, shall and may, once every week, and oftener, at their pleasure, hold and keep a court or assembly, for the better order and government of the said plantation; and that any five persons of our council for the time being, of which company the treasurer, or his deputy, to be always one, and the number of fifteen persons, at the least, of the generality of the said company assembled together, in such manner as hath been heretofore used and accustomed, shall be reputed to be, and shall be, a sufficient court for the handling, ordering, and dispatching of all such casual and particular occurrences, as shall, from time to time, happen, touching and concerning the said plantation. And, nevertheless, for the handling, ordering, and disposing of the matters and affairs of greater weight and importance, such as shall, *in any sort*, concern the weal public, and the general good of the said plantation, as, namely, the *manner of government*, from time to time, to be used, the ordering and disposing of the lands and possessions, and the *settling and establishing of a trade there*, or such like, there shall be held and kept, every year *for ever*, one great general and solemn assembly. In all and every of which said great and general courts, so assembled, our will and pleasure is, and we do, for us, our heirs and successors for ever, give and grant to the said treasurer and company, or the greater number of them, so assembled, that they shall and may have full power and authority, from time to time, and at all times hereafter, to *elect* and *choose* discreet persons to be of our said council, for the first colony of Virginia; and to nominate and appoint such officers, as they shall think fit and requisite for the government, managing, ordering, and dispatching of the affairs of the said

company; and shall likewise have full power and authority to ordain and make such laws and ordinances for the good and welfare of the said plantation, as to them, from time to time, shall be thought requisite and meet; *so always, as the same be not contrary to the laws and statutes of this our realm of England.*"

By this charter, King James divested himself wholly both of the legislative and executive authority: but, for his own security, prescribed a model for their civil constitution. Their laws were not to be *contrary* to the laws and statutes of his realm of England; which restriction was inserted into all the subsequent charters, with some little variation, such as, that their laws should be "consonant to reason, and not repugnant, or contrary, but *as near as conveniently may be*, agreeable to the laws, statutes, and rights of this our kingdom of England."

This mode of expression, so indefinite in itself, shows that the use made of the clause, by some ministerial advocates, is by no means natural or warrantable. It could only be intended to set forth the British Constitution as a pattern for theirs: and accordingly we find, that upon the arrival of Sir George Yardly in Virginia, soon after this patent was procured, the government was regulated upon a new plan, that it might "resemble the British Constitution, composed of two Houses of Parliament, and a sovereign. The number of the council was increased, intending this body should represent the House of Lords, while the House of Commons was composed of burgesses, assembled from every plantation and settlement in the country."

There might be a great dissimilarity between the laws of Virginia and those of Great Britain, and yet not an absolute contrariety: so that the clause in question is not explicit or determinate enough, to authorize the conclusion drawn from it. Besides, if the colonies were within the realm of England, there would be no necessity for any provision in favor of its laws: and if they were without (as is clearly implied by the clause itself), it must be a contradiction to suppose its jurisdiction could extend beyond its own limits.

But the true interpretation may be ascertained, beyond a doubt, by the conduct of those very princes who granted the

charters. They were certainly the best judges of their own intention, and they have left us indubitable marks of it.

In April, 1621, about nine years after the third Virginia charter was issued, a bill was introduced into the House of Commons, for indulging the subjects of England with the privilege of fishing upon the coast of America: but the House was informed by the Secretary of State, by order of his Majesty King James, that "*America was not annexed to the realm; and that it was not fitting that Parliament should make laws for those countries.*"

In the reign of his successor, Charles the First (who granted the Massachusetts and Maryland charters), the same bill was again proposed in the House, and was, in the like manner, refused the royal assent; with a similar declaration, that "it was unnecessary; that the colonies *were without the realm and jurisdiction of Parliament.*"

Circumstances which evidently prove, that these clauses were not inserted to render the colonies dependent on the Parliament; but only (as I have observed) to mark out a model of government for them. If, then, the colonies were, at first, *without the realm and jurisdiction of Parliament*, no human authority could afterwards alter the case, without their own voluntary, full, and express approbation.

The settlement of New England was the next in succession, and was instigated by a detestation of civil and ecclesiastical tyranny. The principal design of the enterprise, was to be emancipated from their sufferings, under the authority of Parliament and the laws of England. For this purpose, the Puritans had before retired to foreign countries, particularly to Holland. But Sir Robert Naughton, Secretary of State, having remonstrated to his Majesty, concerning the impolicy and absurdity of dispeopling his own dominions, by means of religious oppression, obtained permission for the Puritans to take up their abode in America, where they found an asylum from their former misfortunes.

Previous to their embarkation at Holland, they had stipulated with the Virginia Company,* for a tract of land in *contiguity*

* This was after they had received their third charter.

with Hudson's River: but when they arrived in America (by some misconduct of the Pilot), they found themselves at Cape Cod, which was without the boundaries of the Virginia Patent. There the season compelled them to remain; and there they have prosecuted their settlements.

They looked upon themselves as having reverted to a state of nature; but, being willing still to enjoy the protection of their former sovereign, they executed the following instrument.

"In the name of God, Amen! We, whose names are underwritten, the loyal subjects of our dread Sovereign Lord, King James, of Great Britain, &c., *King*,* defender of the faith, &c., having undertaken, for the glory of God, and the advancement of the Christian faith, and the honor of our *King* and country, a voyage to plant the first colony in the northern part of Virginia, do, by these presents, mutually, in the presence of God and one another, covenant and combine ourselves together, into a civil body politic, for our better order and preservation, and furtherance of the ends aforesaid; and by virtue hereof, to enact, constitute, and frame, such just and equal laws, ordinances, acts, constitutions, and officers, from time to time, as shall be thought most meet and convenient for the general good of the colony; unto which we promise all due submission and obedience.

"In witness whereof, we have hereunto subscribed our names, at Cape Cod, November 11, 1620."

This was the original constitution of New Plymouth. It deserves to be remarked here, that these first settlers possessed their lands by the most equitable and independent title, that of a fair and honest purchase from their natural owners, the Indian tribes. King James, soon after, erected a council at Plymouth, in the county of Devon, "for the planting, ruling, ordering, and

* This ought to silence the infamous calumnies of those, who represent the first settlers in New England, as enemies to kingly government; and who are, in their own opinions, wondrous witty, by retailing the idle and malicious stories that have been propagated concerning them; such as their having erased the words *King*, *Kingdom*, and the like, out of their Bibles, and inserted in their stead, Civil Magistrate, Parliament, and Republic.

governing, of New England in America;" and granted to "them, their successors and assigns, all that part of America, lying and being, in breadth, from forty degrees of north latitude from the equinoctial line, to the forty-eighth degree of the said northerly latitude, inclusively; and in length of, and within all the breadth aforesaid, throughout all the main land, from sea to sea; together with all the firm lands, soils, grounds, havens, ports, rivers, waters, fishings, mines, minerals, precious stones, quarries, and all and singular other commodities, *jurisdictions, royalties, privileges, franchises, and pre-eminences*,, both within the said tract of land upon the main, and also within the islands and seas adjacent.—To be held of his Majesty, his heirs and successors, in free and common soccage: and the only consideration to be, the fifth part of all gold and silver ore, for and in respect *of all and all manner of duties, demands, and services.*"

This council was vested with the sole power of legislation; the election and appointment of all officers, civil and military; authority to coin money, make war and peace, and a variety of other signal privileges. The colony of New Plymouth was comprehended within the grant. In consequence of which, its inhabitants, a few years after, purchased the claim of the patentees, with all their rights and immunities, and became an independent state by charter.

The same motives that induced the settlement of New Plymouth, did also produce that of Massachusetts. It was first colonized by virtue of a patent from the council at Plymouth; and in a year after, by a charter from King Charles the First, dated the 4th of March, in the fourth year of his reign; by which the adventurers and inhabitants were formed into "one body politic and corporate, by the name of the Governor and Company of the Massachusetts Bay, in New England," and clothed with powers and privileges resembling those of the colony of New Plymouth.

It happened some time before this, that there was a dissolution of the Virginia Company, by a royal proclamation, dated 15th of July, 1624; by which the colony became more immediately dependent on the king. The Virginians were greatly

alarmed at this, and forthwith presented a remonstrance to the Throne; in which they signified an apprehension of "designs formed against their rights and privileges." In order to banish their fears, the Lords of the Council (in a letter dated the 22d of July 1634,) gave them an assurance, by his Majesty's direction, "that all their *estates, trade, freedom*, and *privileges*, should be enjoyed by them, in as extensive a manner as they enjoyed them before the recall of the company's patent." Agreeably to this, their former constitution was confirmed and continued.

The Maryland charter is the next in order, of which you, sir, have made no mention. It was granted by King Charles the First to Lord Baltimore; and contains such ample and exalted privileges, that no man in his senses can read it, without being convinced it is repugnant to every idea of dependence on Parliament.

It bestows on him, "all the country of Maryland, and the islands adjacent; together with all their commodities, *jurisdictions, privileges, prerogatives, royal rights*, &c. &c., of what kinds soever, as well by sea as land; and constitutes him, his heirs and assigns, true and absolute lords and proprietaries of the said country, and of all the premises aforesaid; saving always the faith and allegiance, and the sovereign dominion, due to *himself*, his heirs and successors: to be holden of the Kings of England, in free and common soccage, by *fealty only*, and not *in capite;* paying two Indian arrows every year, and also the fifth part of all gold and silver ore which shall from time to time happen to be found: Granting also full and absolute power to the said Lord Baltimore, his heirs, &c., to ordain, make, enact, and publish, *any laws whatsoever*, *by* and *with* the *advice*, *assent*, and *approbation*, of the *freemen* of the said province, or the greater part of them; or of *their delegates* or *deputies; whom*, for the enacting of the said laws, when, and as often as need shall require, we will, that the said now Lord Baltimore, and his heirs, shall assemble in such sort and form, as to him and *them*, shall seem best. Provided, nevertheless, that the said laws be consonant to reason, and be not repugnant, or contrary, but *as near as conveniently may be*, agreeable to the laws, statutes, and rights of this our kingdom of England."

In another place it is ordained, that he the "said Lord Baltimore, *may from time to time for ever*, have and enjoy, the customs and subsidies, within the said ports, harbors, &c., within the province aforesaid, payable or due for *merchandises* and *wares*, there to be laden and unladen; the said *subsidies* and *customs*, to be reasonably assessed (upon any occasion), by *themselves* and the *people there*, as aforesaid; to whom we give power by these presents, for us, our heirs and successors, upon just cause and in due proportion, to assess and impose the same."

I confine myself to these extracts, to avoid prolixity, and pass over the enumeration of those many extensive prerogatives this charter confers; such as the appointment of all officers, civil and military; the power of making war and peace; the establishment of *boroughs* and *cities;* with all necessary immunities, and the like.

In the fourteenth year of Charles the Second, the two colonies, Connecticut and New Haven, petitioned the King to unite them into one colony, which was complied with. Privileges, as valuable and extensive as any that had been before granted, were comprised in their charter. There was only a reservation of allegiance to the king, without the smallest share of the legislative or executive power. The next year, Providence and Rhode Island procured a charter, with privileges exactly correspondent to those of Connecticut.

You are pleased to assert, "that the charters of Rhode Island and Connecticut are simply matters of incorporation;" and produce an extract in confirmation of this assertion.

I should be astonished at so extraordinary a deviation from truth, if there were not many instances similar to it. Not only the whole tenor of their charters, but their constant practice and form of government, hitherto, declare the reverse of your assertion. But, that I may not unnecessarily prolong this letter by a quotation of the different parts of the respective charters, give me leave to present you with an account of the constitution of these colonies, which was laid before the House of Lords in January 1734.

Connecticut and Rhode Island," say the commissioners o

Trade and Plantations, "are charter governments, where almost the whole power of the crown is delegated to the people, who make annual election of their Assembly, their Councils, and their Governors; likewise to the majority of which Assemblies, Councils, and Governors, respectively, being collective bodies, the power of making laws is granted; and, as their charters are worded, they can, and do, make laws, even without the Governor's assent, no negative voice being reserved to them, as Governors, in said charters. These colonies have the power of making laws for their better government and support; and are not under any obligation, by their respective constitutions, to return authentic copies of their laws to the crown, for approbation or disallowance; nor to give any account of their proceedings; nor are their laws repealable by the crown; but the validity of them depends upon their not being contrary, but *as nearly as may be*, agreeable to the laws of England."

As to the expression, as *other* our liege people of this our realm of England, or any *other* corporation or body politic, within the same; if any stress be laid on the particle *other*, it will imply not only that the colonies were simple matters of corporation, but that the inhabitants of them were considered as being within the realm of England. But this cannot be admitted as true without contradicting other clauses of the same charters. Thus, in the preamble to that of Rhode Island, it is said that the first planters "did, by the consent of our royal progenitors, transport themselves *out* of this Kingdom of England *into* America." And in each of the charters the King stipulates that all the children born in America, shall enjoy "all the liberties and immunities of free and natural subjects, within any of his dominions, as *if* they and every of them *were* born within the realm of England."

The vague and improper manner in which this particle is used in many other places of the several charters, will not allow it the least weight in the present instance. In the eleventh article of the third Virginia charter there is this expression:—"All such, and so many of our loving subjects, or any *other* strangers that will, &c." The same rule of inference that makes Rhode Island and Connecticut simple corporations, will also transform

the king's loving subjects into mere strangers, which I apprehend cannot be done without some degree of absurdity.

In the fifteenth year of Charles the Second, Carolina was erected into a principality. A patent dated March 24, 1663, was granted to eight lord proprietors, vesting them with all its rights, privileges, prerogatives, royalties, &c., and the whole legislative and executive authority, together with the power of creating a nobility. The form of government was determined by a compact between the people and the proprietors, which contained one hundred and twenty articles; and "these were to be and remain the sacred and unalterable rule and form of government in Carolina for ever." A Palatine was to be erected from among the proprietaries, who was to govern the principality during his life; and at his demise, the surviving lords were to succeed him according to the order of seniority. The legislative power was to reside in the parliament of that country, consisting of the Palatine as sovereign; an upper House, in which the proprietors or their deputies, the Governor and the Nobility, were to sit; and a lower House *composed of the delegates of the people.* There was likewise a court established, the members of which were three proprietaries, and the Palatine as president, and in this court the whole executive authority was lodged.

There were also several other courts: the Chief Justice's, the High Constable's, the Chancellor's, and High Steward's Court. The principal officers of the State, in number, titles, and power, resembled those of the realm of England. The proprietors of Carolina considered themselves as possessed of every requisite towards forming a separate independent State, and were always extremely jealous of any encroachments. They even disputed the King's authority to establish Courts of Vice Admiralty within their precincts, though for the examination and punishment of offences committed without them, and always appointed an Admiral of their own. One of their governors was deposed, for "accepting a commission under King William, as Judge of the Admiralty, when he had, at the same time, a commission from the Lords proprietaries for the same office."

The Philadelphia charter was next granted, and contained

almost an equality of privileges with that of Maryland. There was, indeed, a reserve in favor of Parliament, perfectly singular and unprecedented in any foregoing charter; and which must either be rejected, or the general tenor of the grant becomes unintelligible.

It happened that the charter of Massachusetts was vacated by a decision in Chancery, and a new one was conferred by *William and Mary.* The agents for that colony did not accept it, till they had first consulted the most judicious civilians and politicians upon the contents of it; and then drew up an instrument in which they assigned the reasons of their acceptance. The following extract will serve to show their sense of it: "The colony," say they, "is now made a province; and the General Court has, with the King's approbation, as much power in New England as the King and Parliament have in England. They have all English privileges and liberties, and can be touched by *no law*, and by *no tax*, but of their own making. All the liberties of their religion are for ever secured."

You say, that "the power to levy taxes is restrained to provincial and local purposes only; and to be exercised over such, only, as are inhabitants and proprietors of the said province."

They are empowered "to levy proportionable and reasonable assessments, rates, and taxes, for our service in the necessary defence and support of the government of the said province or territory; and the protection and preservation of the inhabitants there." The defence and support of government, and their own protection and preservation, are the purposes for which they are to raise supplies; and, in my humble opinion, there are no others to which any society is under an obligation to contribute its wealth or property.

I shall only make one more observation upon this charter; which is, that there was a reservation in it of liberty for the people of England to fish upon their coasts, which would have been useless and absurd, had that province been a part of the realm, and within the jurisdiction of Parliament.

Were it necessary to elucidate, still more, a point which is so conspicuous from the several charters of the colonies, as well as

the express declarations of those princes by whom they were granted, to wit, "*that the colonies are without the realm and jurisdiction of Parliament;*" I might enumerate many striking circumstances besides those I have already mentioned. But as the case is by this time sufficiently clear, I shall confine myself to the recital of only one or two more transactions.

An act of the twenty-fifth of Charles the Second, was the first that ever imposed duties on the colonies for any purpose; and these, as the preamble itself recites, were simply as a regulation of trade, and were of a prohibitory nature. Notwithstanding this, it was the source of great dissatisfaction; and was one of the principal causes of the insurrection in Virginia, under Colonel Bacon, which after his death subsided; and then the province sent agents to England, to remonstrate "against taxes and impositions being laid on the colony, by any authority but that of the General Assembly." In consequence of this, a declaration was obtained, under the privy seal of King Charles, dated nineteenth of April, 1676, to this effect: that "taxes ought not to be laid upon the proprietors and inhabitants of the colony, but by the common consent of the General Assembly."

About three years after, when King Charles had occasion to raise a permanent revenue for the support of Virginia, he did not attempt to do it by means of a parliamentary donation; but framed a bill, and sent it there by Lord Culpepper, who was at that time governor, to receive the concurrence of their legislature. It was *there* passed into a law, and "*enacted by the King's most excellent Majesty, by and with the consent of the General Assembly of the colony of Virginia.*" If the Virginians had been subjects of the realm, this could not have been done, without a direct violation of *Magna Charta;* which provides, that no English subject shall be taxed without the consent of Parliament.

Thus, sir, I have taken a pretty general survey of the American charters, and proved, to the satisfaction of every unbiassed person, that they are entirely discordant with that sovereignty of Parliament for which you are an advocate. The disingenuity of your extracts (to give it no harsher name) merits the severest censure; and will, no doubt, serve to discredit all your former, as well as future, labors in your favorite cause of despotism.

It is true, that New-York has no charter. But if it could support its claim to liberty in no other way, it might, with justice, plead the common principles of colonization: for it would be unreasonable to exclude one colony from the enjoyment of the most important privileges of the rest. There is no need, however, of this plea. THE SACRED RIGHTS OF MANKIND ARE NOT TO BE RUMMAGED FOR AMONG OLD PARCHMENTS OR MUSTY RECORDS. THEY ARE WRITTEN, AS WITH A SUNBEAM, IN THE WHOLE VOLUME OF HUMAN NATURE, BY THE HAND OF THE DIVINITY ITSELF; AND CAN NEVER BE ERASED OR OBSCURED BY MORTAL POWER.

The nations of Turkey, Russia, France, Spain, and all other despotic kingdoms in the world, have an inherent right, whenever they please, to shake off the yoke of servitude (though sanctioned by the immemorial usage of their ancestors), and to model their government upon the principles of civil liberty.

I will now venture to assert, that I have demonstrated, from the voice of nature, the *spirit* of the British constitution, and the charters of the colonies in general, the absolute non-existence of that parliamentary supremacy for which you contend. I am not apt to be dogmatical, or too confident of my own opinions; but, if I thought it possible for me to be mistaken, when I maintain, that the Parliament of Great Britain has no sovereign authority over America, I should distrust every principle of my understanding, reject every distinction between truth and falsehood, and fall into a universal skepticism.

Hitherto, I have reasoned against the whole authority of Parliament, without even excepting the right we have conceded, of regulating trade. I considered it, in its original state, as founded in the British constitution, the natural rights of society, and the several charters of the colonies. The power of regulating our trade, was first exercised in the reign of Charles the Second. I shall not examine upon what principle. It is enough, we have consented to it. But I shall proceed to consider the argument you make use of, to establish the propriety of allowing special duties to be imposed by way of tribute, for the protection of our commerce.

You argue thus: "Notwithstanding the large landed estates, possessed by the British subjects in the different parts of the world, they must be considered as a commercial, manufacturing people. The welfare, perhaps the existence, of Great Britain, as an independent or sovereign State, depends upon her manufactures and trade; and many people in America think, that her manufactures and commerce depend, in a great measure, on her intercourse with her colonies; insomuch, that if this should be neglected, her commerce would decline and die away; her wealth would cease; and her maritime power be at an end. If these observations be just, they establish the right of the British Parliament to regulate the commerce of the whole empire, beyond possibility of contradiction; a denial of it, would be a denial of a right in the British empire to preserve itself. They prove, also, that all parts of the empire must be subject to the British Parliament; for, otherwise, the trade of the whole cannot be regulated. They point out, also, the best mode of raising such a revenue as is necessary for the support and defence of the government, viz., by duties on imports and exports: because these are attended with the least inconvenience to the subject, and may be so managed as to raise a revenue and regulate the trade at the same time.

"When it is considered that Great Britain is a maritime power; that the present flourishing state of her trade, and of the trade of her colonies, depends, in a great measure, upon the protection which they receive from the navy; that her own security depends upon her navy; and that it is, principally, a naval protection we receive from her; there will appear a peculiar propriety in laying the chief burthen of supporting her navy, upon her commerce; and in requesting us to bear a part of the expense, proportional to our ability, and to that protection and security which we receive from it."

The supposition, that a cessation of commerce between Great Britain and the colonies, would be ruinous and destructive to the former, is ushered in, as the principal argument for her right to regulate the commerce of the whole empire. I am willing to allow it its full weight; but I cannot conceive how you can pre-

tend, after making such use of it, to deny it the force it ought to have, when it is urged as affording a moral certainty that our present measures will be successful. If you tacitly adopt the principle, and reason from it, in one case, with what propriety can you reject it in the other? If the preservation of the British empire depends, in any material degree, upon the right of Parliament to regulate the trade of the colonies, what will be the consequence if the trade ceases altogether? You must either acknowledge, that you have adduced a very weak and foolish argument, or that the commercial connection between Great Britain and the colonies, is essential to her security and prosperity. You have either failed in proving your point, or you have furnished me with an ample confutation of all your reasoning against the probability of success, from the restrictions laid on our commerce. If our trade be necessary to the welfare of Great Britain, she must, of course, be ruined by a discontinuance of it.

But it is granted, that Great Britain has a right to regulate the trade of the empire. The Congress have acknowledged it, so far as concerned their constituents. You infer from thence, that all parts of the empire must be subject to her. They need only be so far subject, as is necessary for the end proposed, that is, the regulation of their trade. If you require any further subjection, you require *means* that are disproportionate to the *end*, which is unreasonable, and not at all allowable.

With respect to the justice of submitting to impositions on our trade, for the purpose of raising a revenue to support the navy by which it is protected; I answer, that the exclusive regulation of our commerce for her own advantage, is a sufficient tribute to Great Britain for protecting it. By this means, a vast accession of wealth is annually thrown into her coffers. It is a matter of notoriety, that the balance of trade is very much against us. After ransacking Spain, Portugal, Holland, the English, French, Spanish, Dutch, and Danish plantations, for money and Bills of Exchange, as remittances for the commodities we take from Great Britain; we are still always greatly in arrears to her. At a moderate computation, I am well informed, that the profits

she derives from us every year, exceed two millions and a half sterling; and when we reflect, that this sum will be continually increasing, as we grow more and more populous, it must be evident, that there is not the least justice in raising a revenue upon us, by the imposition of special duties.

The right of Great Britain to regulate our trade upon this plan, it is now acknowledged, is not an inconsiderable matter. It is as much as any free people can concede, and as much as any just people would require. We are not permitted to procure manufactures any where else than from Great Britain, or Ireland. Our trade is limited and prescribed, in every respect, as is most for her interest. This is a plentiful source of wealth to her, as I have heretofore shown, and shall hereafter confirm by the testimony of some British writers.

But I have found out an argument, which, I imagine, will go very near convincing yourself of the absurdity of what you have offered on this head. It is short, but conclusive. "*The principal profits of our trade centre in Great Britain.*"* How can you, my dear sir, after making this confession, entertain a single thought, that it is incumbent upon us to suffer her to raise a revenue upon our trade? Are not the *principal profits* a sufficient recompense for protecting it? Surely you would not allow her the whole. This would be rather too generous. However ardent your affection to her, and however much it may be your glory to advance her imperial dignity, you ought to moderate it so far, as to permit us to enjoy some little benefit from our trade. Only a small portion of the profits will satisfy us. We are willing to let her have the *principal* share, and this you acknowledge she already has. But why will you advise us to let her exhaust the small pittance we have reserved, as the reward of our own industry, in burthensome revenues? This might be liberality and generosity, but it would not be prudence: and let me tell you, in this selfish, rapacious world, a little discretion is, at worst, only a *venial* sin. It will be expedient to be more cautious for the future. It is difficult to combat truth; and unless you redouble

* See Page 19 of your own letter.

your vigilance, you will (as in the present instance) be extremely apt to ensnare yourself.

I shall now briefly examine the excellent mode you have proposed, for settling our disputes finally and effectually. All internal taxation is to be vested in our own legislatures; and the right of regulating trade, by duties, bounties, &c., to be left to the Parliament, together with the right of enacting all general laws for all the colonies. You imagine that we should then "have all the security for our rights, liberties, and properties, which human policy can give us."

Here we widely differ in sentiment. My opinion is, that we should have no "security besides the good will of our rulers; that is, no security at all." Is there no difference between one system of laws and another? Are not some more favorable and beneficial to the subject; better calculated to preserve his life and personal liberty than others? It is evident they are. Suppose, instead of the present system established among us, the French laws were to be introduced, for the good of all the colonies: Should we have the same security for our lives which we now have? I presume we should not. I presume, also, that a revolution in our laws might and would gradually take place.

A fondness for power is implanted in most men; and it is natural to abuse it, when acquired. This maxim, drawn from the experience of all ages, makes it the height of folly to intrust any set of men with power, which is not under every possible control; perpetual strides are made after more, as long as there is any part withheld. We ought not, therefore, to concede any greater authority to the British Parliament, than is absolutely necessary. There seems to be a necessity for vesting the regulation of our trade *there*, because, in time, our commercial interests might otherwise interfere with hers. But with respect to making laws for us, there is not the least necessity, or even propriety in it. Our legislatures are confined to ourselves, and cannot interfere with Great Britian. We are best acquainted with our own circumstances, and therefore best qualified to make suitable regulations. It is of no force to object, that no particular colony has power to enact general laws for all the colonies. There is

no need of such general laws. Let every colony attend to its own internal police, and all will be well. How have we managed heretofore? The Parliament has made no general laws for our good; and yet our affairs have been conducted much to our ease and satisfaction. If any discord has sprung up among us, it is wholly imputable to the incursions of Great Britain. We should be peaceable and happy, if unmolested by her. We are not so destitute of wisdom as to be in want of her assistance, to devise proper and salutary laws for us.

The legislative power of Parliament would at any rate be useless to us; and as utility is the prime end of all laws, that power has no reason for which it should exist. It is not even requisite for preserving the connection between Great Britain and the colonies, for that is sufficiently secured in two ways: by being united under the same king, and by the important privilege of regulating our commerce, to which we have submitted.

That it might be prejudicial to us, no reasonable man can deny. We may trace the evils of it through the whole administration of justice. Judicial proceedings may be so ordered as to render our lives and properties dependent on the will and caprice of court favorites and tools. A wide field for bribery and corruption of every kind would be opened, and the most enormous exactions would take shelter under the garb of law. It is unnecessary to enter into a particular detail of the different methods in which all this might be effected; every man's own imagination will suggest to him a multiplicity of instances.

Rigorous, oppressive, and tyrannical laws may be thought expedient, as instruments to humble our rebellious tempers, and oblige us to submit to further exertions of authority, till the claim to bind us in all cases whatsoever be fully complied with. This, do doubt, would be a work of time. The steps would be gradual, and perhaps imperceptible; but they would be sure and effectual. That thirst of power which influenced the Parliament to assert an unlimited authority over us, without the least plausible foundation for it (as I have clearly proved), will authorize us to apprehend the worst.

The power of legislating for us, and of raising a revenue upon

the articles of commerce, would be a sufficient degree of slavery. It is absurd to say, that Great Britain could not impose heavy burthens on our commerce, without immediately feeling the effect herself. She may enrich herself by reducing us to the most lamentable state of penury and wretchedness. We are already forbid to purchase the manufactures of any foreign countries. Great Britain and Ireland must furnish us with the necessaries we want. Those things we manufacture among ourselves may be disallowed. We should then be compelled to take the manufactures of Great Britain upon her own conditions. We could not, in that case, do without them. However excessive the duties laid upon them, we should be under an inevitable necessity to purchase them. How would Great Britain feel the effects of those impositions, but to her own advantage? If we might withdraw our custom, and apply to other nations; if we might manufacture our own materials, those expedients would serve as a refuge to us, and would indeed be a security against any immoderate exactions. But these resources would be cut off. There would be no alternative left us. We must submit to be drained of all our wealth, for those necessaries which we are not permitted to get elsewhere.

As to our trade with foreign countries, the burthens imposed on that, however grievous, would in like manner affect Great Britain only by increasing her public treasure. Her own inhabitants would pay no part of them; they would fall solely upon ourselves. There is no immediate connection between her trade and ours, of this kind; they are separate and independent; and, of course, the incumbrances on the one would not injure the other. The superfluity of our products must be exported, to enable us to pay our debts to her; and we must submit to be loaded at her discretion. If we look forward to a period not far distant, we shall perceive that the productions of our country will infinitely exceed the demands which Great Britain and her connections can possibly have for them; and, as we shall then be greatly advanced in population, our wants will be proportionably increased. These circumstances will open an ample field for extortion and oppression.

The legislative authority of Parliament would always be ready to silence our murmurs by tyrannical edicts. These would be enforced by a formidable army, kept up among us for the purpose. The slightest struggles to recover our lost liberty would become dangerous, and even capital. Those hated things, Continental Conventions, by which there might be a communion of councils and measures, would be interdicted. Non-importation and non-exportation agreements would, in effect, be made *seditious*, *illegal*, and *treasonable*.* No remedy would be left, but in the clemency of our oppressors; a wretched one, indeed, and such as no prudent man would confide in! In whatever light we consider the matter, we shall find that we must effectually seal our bondage by adopting the mode you recommend.

Agreeably to your own concessions, Great Britain is abundantly recompensed for the naval protection she affords, by the *principal profits* of our trade. It can, therefore, with no color of justice, be urged upon us to permit her to raise a revenue through that channel.

But, after all, let us suppose that the emolument which arises from the simple and abstracted regulation of our trade, is inadequate to the protection we derive from the parent State: does it follow, that her just demands cannot be satified, unless we put it in her power to ruin us? When did the colonies refuse to contribute their proportion towards defraying the expenses of government? During the war, our contributions were so liberal and generous, that we were thought to have done more than our part; and restitution was accordingly made. Massachusetts, that injured, insulted, and calumniated country, was foremost in displaying its loyalty; and was parsimonious neither of its men nor money. But, notwithstanding this, no confidence, it seems, is due to our virtue or fidelity; but every thing is to be trusted to the wisdom and disinterestedness of a British Parliament.

We do not expect, nor require, that all should depend upon our integrity or generosity, but only a part; and this, every rule of equity entitles us to. We have assented to the exercise of a

* I believe these were the epithets bestowed on them by Gen. Gage.

power which gives a certainty to Great Britain of a vast annual income: any further aids that may be necessary, ought to be intrusted to our fidelity. When the circumstances of two parties will not admit of precise boundaries to the duty of each, it is not a dictate of justice to put one entirely into the power of the other. If the mother country would desist from grasping at too much, and permit us to enjoy the privileges of freemen, interest would concur with duty, and lead us to the performance of it. We should be sensible of the advantages of a mutual intercourse and connection, and should esteem the welfare of Britain as the best security for our own. She may, by kind treatment, secure our attachment in the powerful bands of self-interest. This is the conduct that prudence and sound policy point out: but, alas! to her own misfortune as well as ours, she is blind and infatuated.

If we take futurity into the account, as we no doubt ought to do, we shall find, that in fifty or sixty years, America will be in no need of protection from Great Britain. She will then be able to protect herself, both at home and abroad. She will have a plenty of men, and a plenty of materials, to provide and equip a formidable navy. She will, indeed, owe a debt of gratitude to the parent State for past services; but the scale will then begin to turn in her favor: and the obligation for future services will be on the side of Great Britain. It will be the interest of the latter to keep us without a fleet, and, by this means, to continue to regulate our trade as before. But, in thus withholding the means of protection which we have within our own reach, she will chiefly consult her own advantage, and oblige herself much more than us. At that era, to enjoy the privilege of enriching herself by the direction of our commerce, and, at the same time, to derive supports, from our youthful vigor and strength, against all her enemies, and thereby to extend her conquests over them, will give her reason to bless the times that gave birth to these colonies.

By enlarging our views, and turning our thoughts to future days, we must perceive, that the special benefits we receive from the British nation, are of a temporary and transient nature:

while, on the other hand, those it may reap from us, by an affectionate and parental conduct, will be permanent and durable; and will serve to give it such a degree of stability and lasting prosperity, as could not be expected in the common fluctuating course of human affairs. Such reflections will teach us, that there is no propriety in making any concessions to Great Britain, which may be at all inconsistent with our safety.

You employ several contemptible artifices to varnish and recommend your scheme. Your conduct, in every respect, affords a striking instance of the depravity of human nature. You insinuate, that the Pennsylvania Farmer admits the right of Parliament to regulate our trade in the same sense you do. The very letter your extracts are taken from, is expressly levelled against the revenue act, with regard to paper, glass, &c. The design of that, and all his subsequent papers, is to prove, that all duties, imposed upon the articles of commerce, for the purpose of raising a revenue, are to be considered in the same light as what you call *internal* taxes, and ought equally to be opposed.

By the "legal authority to regulate trade," he means nothing more, than what the Congress have allowed: an authority to confine us to the use of our own manufactures; to prescribe our trade with foreign nations, and the like. This is the power he speaks of as being "lodged in the British Parliament." And as to *general duties*, he means such as the people of Great Britain are to pay as well as ourselves. Duties, for the purpose of a revenue raised upon us only, he calls *special* duties; and says, "they are as much a tax upon us as those imposed by the stamp act."

The following passage will show the sentiments of this ingenious and worthy gentleman; and, at the same time, will serve to illustrate what I have heretofore said.

"If you once admit," says he, "that Great Britain may lay duties upon her exportations to us, *for the purpose of levying money on us only*, she will then have nothing to do, but to lay duties on the articles which she prohibits us to manufacture, and the tragedy of *American* liberty is finished. We have been prohibited from procuring manufactures in all cases, any where but

from Great Britain (excepting linens, which we are permitted to import directly from Ireland). We have been prohibited in some cases from manufacturing for ourselves, and may be prohibited in others. We are, therefore, exactly in the situation of a city besieged, which is surrounded by the besiegers in every part but *one*. If that is closed up, no step can be taken, *but to surrender at discretion*. If Great Britain can order us to come to her for the necessaries we want; and can order us to pay what taxes she pleases before we take them away, or when we land them here; we are as abject slaves as *France* and *Poland* can show, in wooden shoes, and with uncombed hair.*

"Perhaps the nature of the necessities of dependent States, caused by the policy of a governing one for her own benefit, may be elucidated by a fact mentioned in history. When the Carthaginians were possessed of the island of *Sardinia*, they made a decree, that the Sardinians should not raise *corn*, nor get it any other way than from the *Carthaginians*. Then, by imposing any duties they would upon it, they drained from the miserable *Sardinians* any sums they pleased; and, whenever that miserable and oppressed people made the least movement to assert their liberty, their tyrants starved them to death or submission. This may be called the most perfect kind of political necessity."

You would persuade us, also, that Mr. *Pitt's* sentiments accord with yours, about the regulation of trade; but this is as false as the other. When he tells them "to exercise every power but that of taking money out of our pockets," he does not mean that they shall barely refrain from a *manual operation* upon our pockets; but that they shall exact money from us in no way whatsoever. To tax the commodities Great Britain obliges us to take from her only, is as much taking money out of our pockets as to tax our estates; and must be equally excluded by Mr. Pitt's prohibition.

You all along argue upon a suppositious denial of the right of Parliament to regulate our trade. You tell us, "It will

* The peasants of *France* wear wooden shoes; and the vassals of *Poland* are remarkable for matted hair which never can be combed.

never give up the right of regulating the trade of the colonies:" and, in another place, "If we succeed in depriving Great Britain of the power of regulating our trade, the colonies will probably be soon at variance with each other. Their commercial interests will interfere;* there will be no supreme power to interpose; and discord and animosity must ensue."

I leave others to determine, whether you are most defective in memory or honesty: but in order to show that you are starting difficulties where there are really none, I will transcribe, for your perusal, part of the fourth resolve of the Congress. After asserting the right of the several provincial legislatures to an exclusive power of legislation "in all cases of taxation and internal policy," they conclude thus: "But from the necessity of the case, and a regard to the mutual interests of both countries, we cheerfully consent to the operation of such acts of the British Parliament, as are *bona fide* restrained to *the regulation of our external commerce*, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation, internal or external, for raising a revenue on the subjects in America without their consent."

It seems to me not impossible, that our trade may be so regulated, as to prevent the discord and animosity, at the prospect of which you are so terrified, without the least assistance from a *revenue*.

Thus have I not only disproved the existence of that parliamentary authority of which you are so zealous an abettor; but also shown, that the mode you have proposed for the accommodation of our disputes, would be destructive to American freedom. My next business is, to vindicate the Congress by a few natural inferences; and such reflections on the state of our commercial connection with the mother country, as are necessary to show the insignificancy of your objections to my former arguments on this head.

* I do not see any reason to believe this would be the case; but as it is of no importance to controvert it, I shall pass it over.

Since it has been proved, that the British Parliament has no right, either to the legislation or taxation of America; and since neither could be ceded without betraying our liberties; the Congress would have acted inconsistent with their duty to their country had they done it. Their conduct, therefore, so far from being reprehensible, was perfectly justifiable and laudable.

The regulation of our trade, in the sense it is now admitted, is the only power we can, with justice to ourselves, permit the British Parliament to exercise: and it is a privilege of so important a nature, so beneficial and lucrative to Great Britain, that she ought, in equity, to be contented with it, and not attempt to grasp at any thing more. The Congress, therefore, have made the only concession, which the welfare and prosperity of America would warrant, or which Great Britain, in reason, could expect.

All your clamors, therefore, against them for not having drawn some proper line, are groundless and ridiculous. They have drawn the only line which American freedom will authorize, or which the relation between the parent State and the colonies requires.

It is a necessary consequence, and not an assumed point, that the claim of Parliament to *bind us by statutes in all cases whatsoever*, is unconstitutional, unjust, and tyrannical; and the repeated attempts to carry it into execution, evince a fixed, inveterate design to exterminate the liberties of America.

Mr. Grenville, during his administration, was the projector of this scheme. His conduct, as a minister, has been severely arraigned by his successors in office, and by the nation in general: but, notwithstanding this, a measure which disgraces his character more than any thing else has been steadily pursued ever since.

The Stamp Act was the commencement of our misfortunes; which, in consequence of the *spirited* opposition made by us, was repealed. The Revenue Act, imposing duties on paper, glass, &c., came next, and was also partly repealed on the same account. A part, however, was left to be the instrument of some future attack. The present minister, in conjunction with a mer-

cenary tribe of merchants, attempted to effect, by stratagem, what could not be done by an open, undisguised manner of proceeding. His emissaries, every where, were set to work. They endeavored, by every possible device, to allure us into the snare. The Act, passed for the purpose, was misrepresented; and we were assured, with all the parade of pretended patriotism, that our liberties were in no danger. The advantage we should receive from the probable cheapness of English tea, was played off with every exaggeration of falsehood; and specious declamations on the criminality of illicit trade, served as a gilding for the whole. Thus, truth and its opposite were blended. The men, who could make just reflections on the sanctity of an oath, were yet base enough to strike at the vitals of those rights which ought to be held sacred by every rational being.

It so happened, that the first tea ship arrived at Boston. The Assembly of that province, justly alarmed at the consequences, made repeated applications to the consignees for the East India Company, requesting them to send back the tea. They as often refused to comply. The ship was detained till the time was elapsed; after which the tea must have been landed, and the duties paid, or it would have been seized by the Custom House. To prevent this, a part of the citizens of Boston assembled, proceeded to the ship, and threw the tea into the river.*

The scheme of the ministry was disappointed on all hands. The tea was returned from all the colonies except South Carolina. It was landed there; but such precautions were taken, as equally served to baffle their attempt.

This abortion of their favorite plan, inflamed the ministerial ire. They breathed nothing but vengeance against America. Menaces of punishment resounded through both Houses of Parliament. The Commons of Great Britain spoke more in the supercilious tone of masters, than in the becoming language of fellow-subjects. To all the judicious reasonings of a Burke, or Barre, no other answer was returned, than the idle tale of *lenity* and

* I shall examine the justice and policy of this procedure in some future publication.

severity. Much was said on their past forbearance, and of their future resentment. This was the burthen of the song. The Quixotte minister, too, promised to bring America to his feet. Humiliating idea, and such as ought to be spurned by every free-born American!

Boston was the first victim to the meditated vengeance. An Act was passed to block up her ports and destroy her commerce, with every aggravating circumstance that can be imagined. It was not left at her option to elude the stroke by paying for the tea; but she was also to make such satisfaction to the officers of his Majesty's revenue, and others who might have suffered, as should be judged *reasonable by the governor.*

Nor is this all. Before her commerce could be restored, she must have submitted to the authority claimed and exercised by the Parliament.*

Had the rest of America passively looked on, while a sister

* This must be evident to every person who has read the Act. The prefatory part of it, is in these words: "Whereas, dangerous commotions and insurrections have been fomented and raised in the town of Boston, &c.; in which commotions and insurrections, certain valuable cargoes of tea, &c., were seized and destroyed: And whereas, in the present condition of the said town and harbor, the commerce of his Majesty's subjects cannot be safely carried on there, nor the *customs* payable to his Majesty, duly collected, &c."

The commotions specified, are those in which the tea was destroyed: The commerce obstructed, was that of the East India Company: And the customs which could not be collected, were those on the tea. These are the evils the Act is intended to punish and remove: and accordingly it provides, that "whenever it shall appear to his Majesty, in his privy council, that peace and obedience to the laws (i. e. the laws of Parliament) shall be so far restored in the said town of Boston, that the trade of Great Britain may safely be carried on there, and his Majesty's *customs* duly collected;" then, his Majesty may, at his discretion, so far open the port, as to him seems necessary. So that until the Bostonians shall submit to let the trade of Great Britain be carried on upon her own terms, and suffer his Majesty's customs (the duty upon tea, or any other Parliament may impose) to be duly collected, they must remain in their present distressed situation: that is, unless they resign their freedom, and put on the ignominious yoke tendered them by Parliament, they are never to recover their lost trade. Hence it appears, how weak, ungenerous, and contemptible, that objection is, which supposes the Bostonians might have avoided their present calamities by paying for the tea. The truth is, they had no alternative but submission to all the *unjust claims of Parliament.*

colony was subjugated, the same fate would gradually have overtaken all. The safety of the whole depends upon the mutual protection of every part. If the sword of oppression be permitted to lop off one limb without opposition; reiterated strokes will soon dismember the whole body. Hence, it was the duty and interest of all the colonies to succor and support the one which was suffering. It is sometimes sagaciously urged, that we ought to commiserate the distresses of the people of Massachusetts, but not intermeddle in their affairs, so far as perhaps to bring ourselves into like circumstances with them. This might be good reasoning, if our neutrality would not be more dangerous than our participation: but I am unable to conceive, how the colonies in general would have any security against oppression, if they were once to content themselves with barely *pitying* each other, while Parliament was prosecuting and enforcing its demands. Unless they continually protect and assist each other, they must all inevitably fall a prey to their enemies.

Extraordinary emergencies require extraordinary expedients. The best mode of opposition was that in which there might be a union of councils. This was necessary to ascertain the boundaries of our rights, and to give weight and dignity to our measures, both in Great Britain and America. A Congress was accordingly proposed, and universally agreed to.

You, sir, triumph in the supposed *illegality* of this body: but granting your supposition were true, it would be a matter of no real importance. When the first principles of civil society are violated, and the rights of a whole people are invaded, the common forms of municipal law are not to be regarded. Men may then betake themselves to the law of nature; and, if they but conform their actions to that standard, all cavils against them betray either ignorance or dishonesty. There are some events in society, to which human laws cannot extend; but, when applied to them, lose all their force and efficacy. In short, when human laws contradict, or discountenance, the means which are necessary to preserve the essential rights of any society, they defeat the proper end of all laws, and so become null and void.

But you have barely asserted, not proved, this *illegality*. If

by the term, you mean a contrariety to law, I desire you to produce the law against it. I maintain there is none in being. If you mean that there is no law, the intention of which may authorize such a convention, I deny this also. It has been always a principle of the law, that subjects have a right to state their grievances, and petition the king for redress. This is explicitly acknowledged by the Act of the first of William and Mary: and "all prosecutions and commitments for such petitioning," are declared to be illegal. So far, then, the Congress was a body founded in law; for if subjects have such a right, they may undoubtedly elect and depute persons from among themselves to act for them.*

As to the particular agreements entered into, with respect to our commerce, the law makes no provision for or against them: they are perfectly indifferent in a *legal* sense. We may, or may not, trade, as is most suitable to our own circumstances.

The deputies chosen in the several provinces, met at Philadelphia according to appointment, and framed a set of resolves, declarative of the rights of America: all which I have by general arguments proved, are consonant to reason and nature; to the spirit of the British Constitution; and to the intention of our charters. They made the only concession (as I have also shown) that their duty to themselves and their country would justify, or that the connection between Great Britain and the colonies demanded.

They solicited the King for a redress of grievances: but, justly concluding, from past experience; from the behavior and declarations of the majority in both Houses of Parliament; and from the known character and avowed designs of the minister; that little or no dependence was to be placed upon bare entreaties; they thought it necessary to second them by restrictions on trade.

In my former defence of the measures of the Congress, I

* All lawyers agree, that the *spirit* and *reason* of a law, is one of the principal rules of interpretation; if so, it cannot be doubted, that when a people are aggrieved, and their circumstances will not allow them unitedly to petition in their own persons, they may appoint representatives to do it for them.

proved, in a manner you never will be able to invalidate, that petitions and remonstrances would certainly be unavailing. I will now examine your frivolous and prevaricating reply.

You answer thus: "In the commotions occasioned by the Stamp Act, we recurred to petitions and remonstrances: our grievances were pointed out, and redress solicited with temper and decency. They were heard; they were attended to; and the disagreeable Act repealed. The same mode of application succeeded, with regard to the duties laid upon glass, painters' colors, &c. You say, indeed, that our addresses on this occasion were treated with contempt and neglected. But, I beseech you, were not our addresses received, read, and debated upon? And was not the repeal of those Acts the consequence? *The fact you know is as I state it.* If these Acts were not only disagreeable to the Americans, but were also found to militate against the commercial interests of Great Britain, it proves what I asserted above; that duties which injure our trade, will soon be felt in England; and then there will be no difficulty in getting them repealed."

I entirely deny the fact to be as you state it; and you are conscious it is not. Our addresses were not heard, attended to, and the disagreeable Act repealed in consequence of them. If this had been the case, why was no notice taken of them in the repealing Act? Why were not our complaints assigned as the inducement to it? On the contrary, these are the express words of the first repeal, to which the second is also similar: "Whereas the continuance of the said Act would be attended *with many inconveniences*, and *may be productive of consequences greatly detrimental to the commercial interests of Great Britain:* May it therefore please your most excellent Majesty, by and with the advice and consent, &c., that from and after the first day of May, 1766, the above mentioned Act, and the several matters and things therein contained, shall be, and is, and are, hereby repealed and made void, to all intents and purposes whatsoever."

The inconveniences and the ill consequences to Great Britain are the only reasons given for the revocation of the Act. How

then can you pretend to say it was in compliance with our petitions? You must think the complaisance of your readers very great to imagine they will credit your assertions at the expense of their own understandings.

Neither is the use you make of the assigned reasons at all just. The consequences, so detrimental to the commercial interests of Great Britain, are not such as would have resulted from the natural operation of the Act, had it been submitted to; but from the opposition made by us, and the cessation of imports which had taken place.

A non-importation (to which you have so violent an aversion) was the only thing that procured us redress on preceding occasions. We did not formerly, any more than now, confine ourselves to petitions only, but took care to adopt a more prevailing method; to wit,—a suspension of trade.

But what proves to a demonstration that our former petitions were unsuccessful, is, that the grand object they aimed at was never obtained. This was, an exemption from Parliamentary taxation. Our addresses turned entirely upon this point. And so far were they from succeeding, that immediately upon the repeal of the Stamp Act, a subsequent Act was passed, declaring the right of Parliament to bind us by statutes in all cases whatsoever. This declaration of the unlimited, universal authority of Parliament, was a direct denial of the leading claim held up in our petition, and of course a rejection of the petition itself.

The same observations are applicable to the Revenue Act, which, had our addresses been successful, would have been wholly, not partially, revoked; and we should not, at this time, have had any occasion to renew our complaints, but should have been in a state of security and tranquillity.

In my former reflections on this head, I urged many considerations to show, that there is less reason now than ever to expect deliverance by means of remonstrance and entreaty. And, indeed, if we consider the vindictive spirit diffused through the words and actions of our oppressors, we must be convinced of this. It impeaches the understandings of the ministry and the Parliament in the grossest manner, to suppose they have re-

newed their attempts, and taken such violent methods to carry them into execution, merely to have the pleasure of undoing the whole, in condescension to our prayers and complaints. The taxation of America is an object too near at heart to be resigned unless from necessity; and, if they would not have abandoned the principle, there could be no reason to expect they would have desisted from the exercise of it in the present instance. For the duty upon tea is in itself very trifling; and, since that is opposed, they could not hope to vary the mode in any way that would be less offensive and less obnoxious to opposition.

In answer to the instance I produced from the unsuccessful application of the Boston Assembly, you tell me, that "the Governor against whom the complaint was made, was called to a public trial before the only court where the cause was cognizable, the King in Council; but the Boston Assembly could not support their charge, and the Governor was acquitted." The truth is, their charge was extremely well supported in the eye of strict justice; but it was destitute of the mere formalities of law, and on this score it was rejected. They accused him of treachery and falsehood, and produced his own letters against him. It was not admitted as a *legal* charge, or *crimen;* nor the party's letters as an evidence, or *testis;* and, by these evasions, the criminal escaped the punishment he deserved; and, instead of it, has been advanced to higher honors, while the complainants were unrelieved and insulted. I remember when the particulars of this transaction were first published, there was one circumstance mentioned: that the petition in question was pronounced at *St. James's* to be "*a seditious, vexatious,* and *scandalous libel.*"

You tell me, "There is also this reason why we should, at least, have tried the mode of petition and remonstrance, to obtain a removal of the grievances we complain of: The friends of America in England have strongly recommended it as the most decent and probable means of succeeding." I wish you had been so kind as to have particularized those friends you speak of. I am inclined to believe you would have found some difficulty in this. There have been some publications in the newspapers,

said to be extracts of letters from England; but who were the authors of them? How do you know they were not written in America? or, if they came from England, that the writers of them were really sincere friends? I have heard one or two persons named as the authors of some of these letters; but they were those whose sincerity we have the greatest reason to distrust. The general tenor of advice, from those with whose integrity we are best acquainted, has been, to place no dependence on the justice or clemency of Great Britain; but to work out our deliverance by a spirited and self-denying opposition. Restrictions on our trade have been expressly pointed out and recommended as the only probable source of redress.

You say, "If the information from England be true, we have by our haughty demands detached most of our friends there from our interest, and forced them to take part against us." Pray, sir, where did you get this information? Is there any inhabitant of the invisible world that brings intelligence to you in a supernatural way? There have been no arrivals from England preceding the time you wrote your letter, that have brought any account of the proceedings of the Congress being received there, or of the consequences resulting from them. Your information must have either come to you in a miraculous manner, or it must be a fiction of your own imagination.

But there are other powerful reasons against trusting to petitions only, in our present circumstances. The town of Boston is in a very critical situation. Men, under sufferings, are extremely apt, either to plunge into desperation, or to grow disheartened and dejected. If the colonies, in general, appear remiss, or unwilling to adopt vigorous measures, in order to procure the most speedy relief, the people of Massachusetts might perhaps have been hurried on to a rash and fatal conduct, or they might have become languid and lifeless. Delays are extremely dangerous in affairs of such vast consequence.

The dispute might have been spun out by ministerial artifice, till the generality of the people became careless and negligent, and, of course, fitter to be imposed upon, and less forward to assert their rights with firmness and spirit. THE HAND OF BRI-

BERY MIGHT HAVE BEEN STRETCHED ACROSS THE ATLANTIC, and the number of domestic vipers increased among us. The ministry and their agents here, are active and subtile: nothing would have been neglected, that might have a tendency to deceive the ignorant and unwary, or to attract the dishonest and avaricious. How great an influence, places, pensions, and honors, have upon the minds of men, we may easily discover, by contrasting the former with the present conduct of some among ourselves. Many who, at the time of the Stamp Act, were loudest in the cause of liberty, and the most ardent promoters of the spirited proceedings on that occasion, have now, from patriots of the first magnitude, dwindled into *moderate men*, friends to order and good government, dutiful and zealous servants to the ministry.

Had our petitions failed, we should have found our difficulties multiplied much more than we can imagine: and since there was the highest probability of a failure, it would have been madness to have hazarded so much upon so unpromising a footing.

It betrays an ignorance of human nature, to suppose, that a design formed and ripened for several years against the liberties of any people, might be frustrated by the mere force of entreaty. Men must cease to be as fond of power as they are, before this can be the case.

I therefore infer, that if the Congress had not concerted other, more efficacious measures, they would have trifled away the liberties of their country, and merited censure instead of approbation. Commercial regulations were the only peaceable means, from which we could have the least hope of success. These they have entered into; and these, I maintain, must succeed, if they are not treacherously or pusillanimously infringed.

You tell me, "I overrate the importance of these colonies to the British empire;" and proceed to make such assertions, as must convince every intelligent person, that you are either a mortal foe to truth, or totally ignorant of the matter you undertake. The following extracts will show whether my representations have been just or not.

"Our plantations spend mostly our *English* manufactures;

and those of *all sorts* almost imaginable, in *prodigious* quantities; and employ near *two-thirds* of all our English shipping; so that we have more people in *England*, by reason of our plantations in *America*.*

"We may safely advance, that our trade and navigation are *greatly* increased by our colonies; and that they really are a source of treasure and naval power to this kingdom, since they *work for us*, and their treasure *centres here*. Before their settlement, *our manufactures were few*, and those but *indifferent;* the number of English merchants very small; and the *whole shipping* of the nation, much inferior to what now belongs to the northern colonies only. *These are certain facts.* But since their establishment, our condition has altered for the better, *almost to a degree beyond credibility.* Our manufactures are *prodigiously* increased; chiefly by the demand for them in the plantations, where they *at least take off one-half*, and supply us with many valuable commodities for exportation; which is as great emolument to the mother kingdom as to the plantations themselves."†

The same author says, in another place, "Before the settlement of these colonies, our *manufactures were few*, and those but indifferent. In those days, we had, not only our *naval stores*, but our *ships*, from our neighbors."

"I shall sum up my whole remarks," says another writer, "on our *American* colonies, with this observation: that, as they are a *certain* annual revenue of *several millions sterling* to their mother country, they ought carefully to be protected, duly encouraged, and every opportunity that presents, improved for their increment and advantage; *as every one they can possibly reap, must at last return to us with interest.*"‡

These quotations clearly prove, that the colonies are of the last importance to Great Britain. They not only take off vast quantities of her manufactures, but furnish her with materials to extend her trade with foreign nations. They also supply her with naval stores, and, in a great measure, with a navy itself. The present flourishing state of her commerce, is chiefly to be

* Postlethwait. † Ibid. ‡ Lex mercatoria.

attributed to the colonies who *work for her*, and whose treasure *centres in her*. How unjust, therefore, is it in her, not to be satisfied with the advantages she has hitherto received from us, but to aim at depriving us of our freedom and happiness! And what ruinous consequences must flow from a cessation of our trade, on which her manufactures so much depend! What prodigious numbers must be thrown out of employ and reduced to beggary and misery!

"But she is a great nation; has vast resources; may easily supply the want of our trade, by making very small concessions to Portugal, Russia, Turkey, &c. Should our non-importation distress her manufactures, every man may employ himself to labor on a farm; and the price of grain would be much advanced in France, Spain, and the Mediterranean. Notwithstanding the present high cultivation of the lands in England, that kingdom is capable of being improved, by agriculture and commerce, so as to maintain double the number of people that it does at present. The improvements in Scotland within the last thirty years are amazing. The enterprising spirit of the people has opened an easy intercourse between all parts of the country, and they have been enriched by commerce to a surprising degree."

I can hardly prevail upon myself to give a serious answer to such ridiculous rant; but it may be requisite, for the sake of the uninformed, and of course it would be improper to decline it.

The national debt is now about one hundred and forty millions sterling—a debt unparalleled in the annals of any country besides. The surplus of the annual revenues, after paying the interest of this debt, and the usual expenses of the nation, is, upon an average, about one million and a quarter sterling:* so that, with all their present resources, they would not be able to discharge the public debt in less than *one hundred and twelve years*, should the peace continue all that time. It is well known that most of the necessaries of life are, at present, heavily taxed in Great Britain and Ireland. The common people are extremely

* See a calculation made by Blackstone. He says, the year '65, two millions were paid, and three millions in the succeeding years; i. e., five millions in four years.

impoverished, and find it very difficult to procure a subsistence. They are totally unable to bear any new impositions; and of course there can be no new internal sources opened. These are stubborn facts, and notorious to every person that has the least acquaintance with the situation of the two kingdoms. Had there been the vast resources you speak of, why have they not been improved to exonerate the people, and discharge the enormous debt of the nation? The guardians of the State have been a supine, negligent, and stupid pack indeed, to have overlooked, in the manner they have done, those numerous expedients they might have fallen upon for the relief of the public. It cannot be expected, but that a war will take place in the course of a few years, if not immediately; and then, through the negligence of her rulers, Great Britain, already tottering under her burthens, will be obliged to increase them till they become altogether insupportable, and she must sink under the weight of them. These considerations render it very evident, that the mighty resources you set forth, in such pompous terms, have nothing but an *imaginary* existence, or they would not have been left so uncultivated in such necessitous and pressing circumstances.

You think you have nothing to do, but to mention the names of a few countries, Portugal, Russia, Turkey, &c., and you have found out an easy remedy for the inconveniences flowing from the loss of our trade. Yet, in truth, Great Britain carries on as extensive a commerce with those countries, and all others, as their circumstances will permit. Her trade is upon the decline with many of them. France has, in a great measure, supplanted her in Spain, Portugal, and Turkey; and is continually gaining ground. Russia is increasing her own manufactures fast; and the demand for those of Great Britain must decrease in proportion.

"Most of the nations of Europe have interfered with *her*, more or less, in divers of her *staple manufactures*, within half a century; not only in her woollen, but in her lead and tin manufactures, as well as her fisheries."*

* Postlethwait.

A certain writer in England, who has written on the present situation of affairs with great temper, deliberation, and apparent integrity, has these observations: "The condition of the great *staple manufactures* of our country is well known; those of the linen and the silk are in the greatest distress; and the woollen and the linen are now publicly bandied, and contending against one another. One part of our people is starving at home on the alms of their parishes; and another running abroad to this very country that we are contending with. The produce of North America, that used to be sent yearly to Great Britain, is reckoned at about four millions sterling; the manufactures of Great Britain, and other commodities returned from hence, at nearly the same sum; the debts due from America to the British merchants here, at about six millions, or a year and a half of that commerce. Supposing, therefore, the Americans to act in this case as they did in the time of the Stamp Act; we shall then have yearly, until the final settlement of this affair, manufactures to the value of four millions sterling, left and heaped on the hands of our merchants and master manufacturers; or we shall have workmen and poor people put out of employ and turned adrift in that proportion. There will likewise be drawn from our home consumption, and out of our general trade and traffic, North American commodities to the same value; and debts, to the immense sum above-mentioned, will be withheld from private people here. What effects these things will produce, considering the present state of our trade, manufactures, and manufacturers, the condition of our poor at home, and the numbers of people running abroad, it don't want many words to explain and set forth. *They were before severely felt* for the time that they lasted; and it is apprehended, that the present situation of the public is yet more liable to the impression. These are some of the difficulties and distresses which we are, for a trial of skill, going to bring on ourselves; and which will be perpetually magnifying and increasing as long as the unnatural contest shall continue."

From these facts and authorities it appears unquestionable, that the trade of Great Britain, instead of being capable of improvement among foreign countries, is rather declining: and

instead of her being able to bear the loss of our commerce, she stands in need of more colonies to consume her manufactures.

It is idle to talk of employing those who might be thrown out of business upon farms. All the lands in England, of any value, have been long ago disposed of, and are already cultivated as high as possible. The laborious farmers find it an exceeding difficult task to pay their yearly taxes, and supply their families with the bare necessaries of life: and it would be impracticable to give employment in agriculture to any more than are already engaged. We can have no doubt of this, if we consider the small extent of territory of Great Britain, the antiquity of its settlement, and the vast number of people it contains. It is rather overstocked with inhabitants: and were it not for its extensive commerce, it could not maintain near the number it does at present. This is acknowledged on all hands. None but yourself would hazard the absurdity of a denial. The emigrations from Great Britain, particularly from the north part of it, as well as the most authentic accounts, prove the contrary of your representations. Men are generally too much attached to their native country to leave it, and dissolve all their connections, unless they are driven to it by necessity. The swarms that every year come over to America, will never suffer any reasonable man to believe, upon the strength of your word, that the people in Scotland, or Ireland, are even in tolerable circumstances.

I cannot forbear wondering, when you talk of the price of grain being advanced in France, Spain, and the Mediterranean, and insinuate that Great Britain may be able to supply them. It will be well if she can raise grain enough for herself, so as not to feel the want of those considerable quantities she frequently gets from us. I am apt to think she will experience some inconveniences on this account.

With respect to Ireland, you think yourself under no obligation to point out where she may find purchasers for her linens so numerous and wealthy as we are: but unless you could do this, you must leave that country in very deplorable circumstances. It is not true, that she may do just as well with her

linens upon her hands, as we can with our flax seed upon ours. Linen is a staple manufacture of hers, and the sole means of subsistence to a large part of her inhabitants. Flax seed, as an article of commerce, is comparatively of little importance to us: but we shall stand in need of all the flax we can raise, to manufacture linens for ourselves; and therefore shall not lose our seed by ceasing to export it. I shall say more of this hereafter.

Nor is it by any means a just inference, that because Ireland formerly subsisted without a linen manufactory, she would not, therefore, severely feel any present obstruction to the sale of the article in question. Her burthens are now much more grievous than they formerly were; and of course her resources ought to be proportionably greater, or she must sink under the pressure of them. The linen manufactory is, at this time, one of her most valuable resources, and could not be materially injured, or impeded, without producing the most melancholy effects. The distressed condition of Ireland will not admit of any diminution of her *means*, but pressingly demands an enlargement of them.

It is of little moment to contest the possibility that that country might procure a sufficiency of flax elsewhere than from us, till it can be shown where she may find a mart for her linens equal to the American: and this you are not willing even to attempt. Yet I have credible information that she could not obtain from Holland much more than usual (for the reasons I before assigned); and that she has always had as much from the Baltic as she could conveniently get. With regard to Canada, any considerable supply from thence would be a work of time, and no relief to her immediate exigencies.

I observed, in my former pamphlet, that "the Dutch may withhold their usual supplies: They may choose to improve the occasion for the advancement of their own trade: They may take advantage of the scarcity of materials in Ireland, to increase and put off their own manufactures." You answer it by saying, "You never yet knew a Hollander who would withhold any thing that would fetch him a good price." The force of my ob-

servation turns upon its being his interest to do it. You should have shown, that it would be more profitable to him to sell it to the Irish than to retain it for the purposes mentioned; otherwise, that very avarice you ascribe to him, will operate as I supposed.

You are unmercifully witty upon what I said concerning the West Indies: but the misfortune of it is, you have done nothing else than "blunder round about my meaning." I will endeavor to explain myself in a manner more level to your capacity.

The lands in the West Indies are extremely valuable, because they produce the sugar cane, which is a very lucrative plant; but they are small in quantity, and therefore their proprietors appropriate only small portions to the purpose of raising food. They are very populous, and therefore the food raised among themselves goes but little way. They could not afford sufficient sustenance to their inhabitants, unless they were chiefly or entirely applied to the production of necessaries; because they are so small in quantity, and so thickly inhabited.

These are truths which every person acquainted with the West Indies must acquiesce in: and should they be deprived of external succors, they must either starve, or suspend the cultivation of the sugar cane. The last is the best side of the dilemma; but that would cut off an annual income of several millions sterling to Great Britain; for it cannot admit of a doubt, that the chief part of the profits of the English West Indies, ultimately centres there.

But, in order to disappoint my malice, you tell me that Canada raises four hundred thousand bushels of wheat a year; and this, you imagine, will pretty well supply the wants of the West Indians: but give me leave to inform you, that it would not satisfy a tenth part of them. The single Island of Jamaica would require much more. At a moderate computation, I believe there are four hundred thousand people in the British West Indies only. Let us allow a pound of wheat a day upon an average, to each,* and make a calculation accordingly.

* This allowance cannot be thought too much, if we consider that the negroes

At a pound a day, every person must be supposed to consume three hundred and sixty-five pounds a year; that is, about twelve bushels. Now, as there are as many people as there are bushels of wheat raised in Canada; and as each person would consume twelve bushels, it follows, that the quantity you mention, would not be above a twelfth part sufficient.

But can we imagine, that all the wheat of Canada would be devoted to the use of the British West Indies? If our ports were to be blocked up, would not the French and Spanish islands be in great distress for provisions? And have not the Canadians any near connections among them? Would they not naturally sympathize with them, and do all in their power to afford relief? And could they find no means to accomplish their inclinations? The answer to these questions is easy. The islands belonging to the French and Spaniards will be greatly distressed: The Canadians will be very ready and desirous to assist them: And they will contrive some expedients to communicate a large share of what their country yields.

What you say concerning the lumber exported from Canada is totally false. That country labors under many inconveniences which have hitherto prevented the exportation of that article, but in very small quantities, and of a particular kind. The places where the lumber grows, are so far distant from the seaports, that the expense of transportation is too great to make it worth while to ship any other than butt staves, and these must be brought quite from Lake Champlain. This disadvantage, together with the number of hands it would require, and the time necessary to enter extensively into any branch of trade, and to remove all the impediments naturally in the way, would render the situation of the West Indians truly pitiable, were they once necessitated to depend upon Canada only, for supplies of lumber.

The attention of Mississippi is entirely engrossed in raising corn and indigo. The advantage arising from these articles, is

live chiefly upon grain; and must continue to do so; because the quantity of flesh and fish would be proportionably diminished when our supplies failed.

much greater than would result from lumber; and of course the people of that country will never attend to the latter in preference to the former.

Thus have I proved, in a full, clear, and conclusive manner, that a cessation of our trade with Great Britain, Ireland, and the West Indies, would be productive of the most fatal consequences to them all; and that, therefore, the peace, happiness, and safety, of the British empire, are connected with the redress of our grievances; and, if they are at all consulted, our measures cannot fail of success.

As to the justice of proceeding in the manner we have done, it must depend upon the *necessity* of such a mode of conduct. If the British Parliament are claiming and exercising an unjust authority, we are right in opposing it, by every necessary means. If remonstrances and petitions have been heretofore found ineffectual (and we have no reasonable ground to expect the contrary at present), it is prudent and justifiable to try other methods, and these can only be, restrictions on trade. Our duty to ourselves and posterity, supersedes the duties of benevolence to our fellow-subjects in Great Britain, Ireland, and the West Indies.

You can never confute the arguments I before made use of on this head, unless you can prove the right of Parliament to act as it has done; or the likelihood of succeeding by petitions. Your feeble endeavors to effect this, I have sufficiently baffled. You must now collect new forces, and make a more vigorous effort, or you must quit the field in disgrace.

Such vociferation as this is not to be admitted instead of argument: "Are the Irish and the West Indians accountable for our mad freaks? Do you expect to extend the tyranny of the Congress over the whole British empire, by the legerdemain of calling it American freedom? Do you think that the Irish and West Indians are in duty bound to enter into our non-importation, non-consumption, and non-exportation agreements, till our grievances, real or pretended, are removed? And that they deserve to be starved if they do not? Enjoy your folly and malevolence if you can."

The resistance* we are making to Parliamentary tyranny, cannot wear the aspect of *mad freaks* to any, but such mad imaginations as yours. It will be deemed virtuous and laudable by every ingenuous mind. When I said that the people of Great Britain, Ireland, and the West Indies, were to be considered as *politically* criminal, for remaining neutral while our privileges were attacked; I did not mean that they ought to enter into any of the above mentioned agreements; but that it was their duty to signify, in a public manner, their disapprobation of the measures carrying on, and to use all their influence to have them laid aside. Had they interested themselves in the affair, with any degree of zeal and earnestness, we should not, probably, have had occasion to act as we do; and they would not have been in danger of their present calamities. Their obligation to assist us in the preservation of our rights, is of the very same nature with ours, to carry on a trade with them.

But you insist upon it, we should not be able to live without the manufactures of Great Britain; and that we should be ruined by a prohibition of our exports. "The first winter after our English goods are consumed, we shall be starving with cold:" after all our endeavors, "the requisite quantity of wool to clothe the inhabitants of this continent, could not be obtained in twenty years." As to cotton, it "must come from the southern colonies; and the expense of bringing it by land, would be too great for the poor. Besides, we have nobody to manufacture our materials after we have got them." All these, you think, are insuperable obstacles; and would, if duly considered, induce us to bend our necks tamely and quietly to the proffered yoke, as much less dreadful than the evils attendant upon our measures will inevitably be.

Nature has disseminated her blessings variously throughout this continent. Some parts of it are favorable to some things, others to others; some colonies are best calculated for grain;

* I mean the general resistance. That there have been some irregularities committed in America, I freely confess. It would be miraculous and inconsistent with human nature, for a people in such critical and trying circumstances, to act perfectly right.

others for flax and hemp; others for cotton; and others for live stock of every kind. By this means, a mutually advantageous intercourse may be established between them all. If we were to turn our attention from external to internal commerce, we should give greater stability and more lasting prosperity to our country than she can possibly have otherwise. We should not then import the luxuries and vices of foreign climes; nor should we make such hasty strides to public corruption and depravity.

Let all those lands, which are rich enough to produce flax and hemp, be applied to that purpose; and let such parts as have been a long time settled, still continue to be appropriated to grain, or other things they are fit for. We shall want as much of the former articles as can be raised; and perhaps as much of the latter, as may be requisite towards the due improvement of the poorer part of our soil. Let it be considered, that the colonies which are adapted to the production of materials for manufactures, will not be employed in raising grain, but must take what they use chiefly from the other colonies; and, in return, supply their materials. By this means, and by dedicating no more of our land to the raising of wheat, rye, corn, &c., than is incapable of producing other things, we shall find no superfluity of those articles; and shall make a very beneficial use of all our lands. This is practicable; difficulties may be started, but none which perseverance and industry may not overcome.

The clothes we already have in use, and the goods at present in the country, will, with care, be sufficient to last *three years*.* During that time, we shall be increasing our sheep as much as possible. It is unfair to judge of the future from the past. Hitherto we have paid no great attention to them; we have killed and exported as fast as we could obtain a sale. When we come to attend properly to the matter, to kill but few, and to export none, we shall, in the course of two or three years, have large numbers of sheep; and wool enough to go a considerable way towards clothing ourselves.

* I may be thought here to contradict my former assertion, to wit, that in eighteen months, all the goods we have among us will be consumed; but I only meant, that all the goods in the hands of the merchants would be purchased and taken off.

Flax and hemp we should undoubtedly have in abundance. The immense tracts of new rich land, which may be planted with these articles, would yield immense quantities of them. What large supplies of seed do we annually export to Ireland! When we come to withhold these, and make the cultivation of flax and hemp a matter of serious attention, we shall soon procure a plenty of them. In speaking of this matter, you confine your views to the single small province of New-York. You say, "We sow already as much flax as we can conveniently manage. Besides, it requires a rich free soil; nor will the same ground in *this* country produce flax a second time, till after an interval of five or six years. If the measures of the Congress should be carried into full effect, I confess we may, in a year or two, want a large quantity of hemp for the executioner. But I fear we must import it. It exhausts the soil too much to be cultivated in the old settled parts of the province."

There is land enough in the other provinces, that is rich, free, and new; nor is it at all liable to the objections you make. As to this particular province, and any others in the same circumstances, let only such parts as are fit, be planted with the articles in question, and let the rest be managed as before. Much more may be produced in this, than has been hitherto; but if it could not afford a sufficiency for itself, let it exchange its grain with other colonies that superabound with such materials.

If we sow already as much flax as we can conveniently manage, it is because the chief of our attention is engrossed by other things; but the supposition is, that there will be less demand for them, and more for flax; and, by attending less to present objects, we shall have it in our power for the future to sow and manage much more flax than in the time past.

With respect to cotton, you do not pretend to deny that a sufficient quantity of that might be produced. Several of the southern colonies are so favorable to it, that with due cultivation, in a couple of years, they would afford enough to clothe the whole continent.

As to the expense of bringing it by land, the best way will be, to manufacture it where it grows, and afterwards transport it

to the other colonies. Upon this plan, I apprehend, the expense would not be greater than to build and equip large ships to import the manufactures of Great Britain from thence.

The difficulty of transportation would be attended with one great advantage. It would give employment and bread to a number of people; and would, among other things, serve to prevent there being those terrific bands of thieves, robbers, and highwaymen, which you endeavor to draw up in such formidable array against the Congress.

It would, however, be hardly possible to block up our ports in such a manner as to cut off all communication between the colonies by water.

There would remain some avenues, in spite of all that could be done; and we should not be idle in making proper use of them.

I mentioned before the vast quantities of skins in America, which would never let us want a warm and comfortable suit. This is one of our principal resources; and this you have passed over in silence. A suit made of skins would not be quite so elegant as one of broadcloth; but it would shelter us from the inclemency of the winter full as well.

Upon the whole, considering all the resources we have, and the time we shall have to prepare them before we are in actual want, there can be no room to doubt, that we may live without the manufactures of Great Britain, if we are careful, frugal and industrious.

But it is said, we have no persons to manufacture our materials after we have provided them. Among the swarms of emigrants that have, within these few years past, come to the continent, there are numbers of manufacturers in the necessary branches. These, for want of encouragement in their own occupations, have been obliged to apply themselves to other methods of getting a living, but would be glad of an opportunity to return to them. Besides these, we should soon have a plenty of workmen from Great Britain and Ireland. Numbers who would be thrown out of employ *there*, would be glad to flock to us for subsistence. They would not stay at

home and be miserable, while there was any prospect of encouragement here. Neither is there any great difficulty in acquiring a competent knowledge of the manufacturing arts. In a couple of years, many of our own people might become proficient enough to make the coarser kinds of stuffs and linens.

But, if it should be necessary, we have other resources besides all these. It will be impossible for the ships of Great Britain to line the vast extended coast of this continent, in such a manner as to preclude the admission of foreign aids and supplies. After every possible precaution against it, we shall still be able to get large quantities of goods from France and Holland.*

I shall conclude this head with one more observation, which is this: That all such as may be deprived of business by the operation of our measures in America, may be employed in cultivating lands. We have enough and to spare. It is of no force to object, that "when our exports are stopped, our grain would become of little worth." They can be occupied in raising other things that will be more wanted, to wit, materials for manufactures; and only a sufficiency of provisions for their own use. In such a country as this, there can be no great difficulty in finding business for all its inhabitants. Those obstacles which, to the eye of timidity, or disaffection, seem like the *Alps*, would, to the hand of resolution and perseverance, become mere *hillocks*.

Once more I insist upon it, that Great Britain can never force us to submission by blocking up our ports; and that the consequences of such a procedure to herself, Ireland, and the West Indies, would be too fatal to admit of it. If she is determined to enslave us, it must be by force of arms; and to attempt this, I again assert, would be nothing less than *the grossest infatuation, madness itself.*

* You may perhaps tell me here, that I contradict the sentiments I formerly delivered, respecting unlawful trade. But it is by no means the case. I despise the practice of avaricious smugglers very heartily; but when a whole people are invaded, there can be no law of any force against their procuring every needful succor.

Whatever may be said of the disciplined troops of Great Britain, the event of the contest must be extremely doubtful. There is a certain enthusiasm in liberty, that makes human nature rise above itself in acts of bravery and heroism. It cannot be expected that America would yield, without a magnanimous, persevering, and bloody struggle. The testimony of past ages, and the least knowledge of mankind, must suffice to convince us of the contrary. We have a recent instance in *Corsica*, to what lengths a people will go in defence of its liberties: and if we take a view of the colonies in general, we must perceive that the pulse of Americans beats high in their country's cause. Let us, then, suppose the arms of Great Britain triumphant, and America mutilated, exhausted and vanquished. What situation will Great Britain then be in? What laurels will she reap from her conquests? Alas, none! Every true friend to that deluded country, must shudder at the prospect of her self-destroying success. The condition we should be left in, would disable us from paying the six millions sterling, which is due for the manufactures of Great Britain. Instead of the present millions derived annually from our trade, we should be so distressed and reduced, as to be, for many years to come, a burthen, and not an advantage. Millions are soon dispensed in supporting fleets and armies. Much British treasure and blood would be expended in effecting our ruin.

This, then, would be the situation of Great Britain. Her public debt would be augmented several millions. Her merchants, who are one of the principal sources of her opulence, would, many of them, become bankrupt, by the loss of the vast sums due them in America. Her manufactures would stagnate and decay, and her revenues would be considerably diminished. This continent, which is now a rich source of wealth and strength, would be debilitated and depressed.

Would the ancient rivals and enemies of Great Britain be idle at such a conjuncture as this? Would they not eagerly seize the opportunity to recover their former losses, and revenge the evils they have sustained on former occasions? It will be said, This is possible, but it may not happen. I answer, Causes

must fail of their usual effects if it does not. Princes and nations must cease to be ambitious and avaricious. The French, from being a jealous, politic, and enterprising people, must be grown negligent, stupid, and inattentive to their own interest. They never could have a fairer opportunity, or a greater temptation to aggrandize themselves, and triumph over Great Britain than would be here presented. Let us imagine England immersed in a war with France, Spain, or any other potent neighbor; with her public debt increased; some of her best springs dried up; and America ruined: not only unable to afford her any assistance, but, perhaps, fired with resentment, and a sense of accumulated injuries, ready to throw itself into the arms of her enemies. In these circumstances, what would be the fate of this unhappy kingdom? Every man of discernment must be convinced that ruin would be unavoidable.

But what reason have we to believe the arms of Great Britain would prevail? It will be replied, Because she can send against us some of the best troops in the world, either with respect to valor or discipline; and because we have only a raw, unexperienced militia to oppose them. Discipline and military skill are certainly matters of great importance, and give those to whom they belong, a vast superiority; but they do not render them invincible. Superior numbers, joined to natural intrepidity, and that animation, which is inspired by a desire of freedom, and a love of one's country, may very well overbalance those advantages.

I imagine, it will be readily allowed, that Great Britain could not spare an army of above fifteen thousand men to send against the colonies. These would have to subdue near six hundred thousand. The established rule of computing the number of men capable of bearing arms in any nation, is by taking a fifth part of the whole people. By the best calculations, we are supposed, in America, to exceed three millions. The fifth part of three millions is six hundred thousand. But in order to be certain of our computation, let us suppose there are only five hundred thousand fighting men in the colonies. Then there will be upwards of thirty Americans to one British soldier. A great

disparity indeed! And such as never can be compensated by any discipline or skill whatever! It will be objected, that these five hundred thousand cannot act together. I grant it: nor is there any occasion that they should. Forty thousand will be a sufficient number to make head at a time; and these must be kept up by fresh supplies as fast as there is any diminution.

Let it be remembered, that there are no large plains for the two armies to meet in, and decide the contest by some decisive stroke; where any advantage gained by either side, might be prosecuted till a complete victory was obtained. The circumstances of our country put it in our power to evade a pitched battle. It will be better policy to harass and exhaust the soldiery, by frequent skirmishes and incursions, than to take the open field with them, by which means they would have the full benefit of their superior regularity and skill. Americans are better qualified for that kind of fighting, which is most adapted to this country, than regular troops. Should the soldiery advance into the country, as they would be obliged to do if they had any inclination to subdue us, their discipline would be of little use to them. We should, in that case, be at least upon an equality with them, in any respect; and as we should have the advantage, on many accounts, they would be likely to gain nothing by their attempts.

Several of the colonies are now making preparation for the worst (and indeed the best way to avoid a civil war, is to be prepared for it). They are disciplining men as fast as possible; and, in a few months, will be able to produce many thousands, not so much inferior in the essentials of discipline as may, perhaps, be imagined. A little actual service will put them very nearly upon a footing with their enemies. The history of the Swedes and Russians, under Charles XII., and Peter the Great, will teach us how soon a people, possessed of natural bravery, may be brought to equal the most regular troops. The Swedes, at first, obtained very signal advantages; but, after a while, the Russians learned to defeat them with equal numbers. It is true, there was one of the greatest men the world has seen, at the head of the latter; but there was one who emulated the Mace-

donian conqueror, at the head of the former. Charles was, perhaps, never surpassed by any man in courage, or skill: and his soldiers were well worthy of such a general. There is also this important circumstance in our favor, when compared with the Russians. They were barbarous and untractable. We are civilized and docile. They were ignorant even of the theory of war. We are well acquainted with it; and, therefore, should more easily be brought to the practice of it, and be sooner taught that order and method which we are deficient in.

It is sometimes urged that we have no experienced officers to command us. We labor under some disadvantage in this respect, but not so great as is believed. There are many who have served in the last war with reputation, dispersed throughout the colonies. These might have the superior direction of matters: and there are men enough of known sense and courage, who would soon make excellent officers. During the disputes between the unfortunate *Charles* and the Parliament, many country gentlemen served in the armies of the latter, and signalized themselves for their military virtues. It is worthy of observation, that the present state of the army is not the most favorable. As is always the consequence of a long peace, there are many effeminate striplings among the officers, who are better calculated to marshal the forces of *Venus*, than to conduct the sturdy sons of *Mars*. There are, comparatively, but few veterans, either among the leaders, or the common soldiers.

You ask me, What resources have the colonies to pay, clothe, arm, and feed their troops? I refer you to the accounts from Virginia and Marblehead, for an answer to this question. Our troops, on the spot with us, will be much more easily maintained, than those of Great Britain at such a distance. We are not so poor and encumbered, as to be unable to support those who are immediately employed in defending our liberties. Our country abounds in provisions. We have already materials enough among us, to keep us in clothes, longer than Great Britain would have any appetite to continue her hostilities. Several of the colonies are pretty well stored with ammunition. France, Spain, and Holland, would find means to supply us with whatever we wanted.

Let it not be said, that this last is a bare *possibility:* that France and Spain have promised not to interfere in the dispute; and that Holland has long been a faithful ally to the British nation. There is the highest degree of probability in the case. A more desirable object to France and Spain, than the disunion of these colonies from Great Britain, cannot be imagined. Every dictate of policy and interest, would prompt them to forward it by every possible means. They could not take any so effectual method to destroy the growing power of their great rival. The promises of princes and statesmen are of little weight. They never bind longer, than till a strong temptation offers to break them: and they are frequently made with a sinister design. If we consult the known character of the French, we shall be disposed to conclude, that their present seemingly pacific and friendly disposition, is merely a piece of *finesse*, intended to dupe administration into some violent measures with the colonies, that they may improve them to their own advantage. The most that can be expected, is, that they would refrain from any open rupture with Great Britain. They would undoubtedly take every clandestine method to introduce among us, supplies of those things which we stood in need of to carry on the dispute. They would not neglect any thing in their power, to make the opposition on our part as vigorous and obstinate as our affairs would admit of.

With respect to Holland, notwithstanding express engagements to the contrary, her merchants, during the last war, were constantly supplying the French and Spaniards with military stores, and other things they had occasion for. The same, or perhaps, more powerful motives, would influence them to assist us in a like manner.

But it seems to me a mark of great credulity to believe, upon the strength of their assurance, that France and Spain would not take a still more interesting part in the affair. The disjunction of these colonies from Great Britain, and the acquisition of a free trade with them, are objects of too inviting a complexion, to suffer those kingdoms to remain idle spectators of the contention. If they found us inclined to throw ourselves upon their

protection, they would eagerly embrace the opportunity to weaken their antagonist, and strengthen themselves. Superadded to these general and prevailing inducements, there are others of a more particular nature. They would feel no small inconvenience in the loss of those supplies they annually get from us; and their islands in the West Indies would be in the greatest distress for want of our trade.

From these reflections it is more than probable, that America is able to support its freedom, even by the force of arms, if she be not betrayed by her own sons. And, in whatever light we view the matter, the consequences to Great Britain would be too destructive to permit her to proceed to extremities, unless she has lost all just sense of her own interest.

You say, "The grand Congress, the *piddling* committees, through the continent, have *all* disclaimed their subjection to the sovereign authority of the empire. They deny the authority of Parliament to make any laws to bind them at all. They claim an absolute independency. Great Britain has no choice, but to declare the colonies independent States, or to try the force of arms, in order to bring them to a sense of their duty."

It is the common trick of ministerial writers, to represent the Congress as having made some new demands, which were unknown to former times; whereas, in truth, they have, in substance, acknowledged the only dependence on Parliament which was ever intended by their predecessors. Nor is it true, that they have claimed an *absolute independency*. It is insulting common sense to say so, when it is notorious that they have acknowledged the right of Parliament to regulate the trade of the colonies. Any further dependence on it, is unnecessary and dangerous. They have professed allegiance to the British King, and have bound themselves, on any emergency, to contribute their proportion of men and money, to the defence and protection of the whole empire. Can this be called *absolute independency?* Is it better for Great Britain to hazard the total loss of these colonies, than to hold them upon these conditions? Is it preferable to make enemies of the people of America, instead of being connected with them, by the equal tie of fellow-sub-

jects? Is it not madness, to run the risk of losing the trade of these colonies, from which the mother country drew* "more clear profit than Spain has drawn from all her mines," because they insist only upon all the essential rights of freemen? You may call it effrontery, consummate assurance, or what you please, to say so: but every man, capable of taking a full prospect of all the probable mischiefs which may result from an open rupture between Great Britain and the colonies, will coincide with me when I affirm, that nothing but the most *frantic extravagance*, can influence administration to attempt the reduction of America by force of arms.

It is sufficiently evident, from the respective charters, that the rights we now claim, are coeval with the original settlement of these colonies. These rights have been, at different times, strenuously asserted, though they have been suffered to be violated in several instances, through inattention, or, perhaps, an unwillingness to quarrel with the mother country. I shall decline producing any other proofs of the sense of the other provinces than those already mentioned, and shall confine myself to a few extracts from the resolves of some assemblies of this province.

In 1691, there was an Act passed by the General Assembly, which contained the following clauses.†

"Be it enacted, by the Governor, Council, and Representatives, met in General Assembly, and it is hereby enacted and declared by the authority of the same, that the *supreme legislative power and authority*, under their Majesties, William and Mary, King and Queen of England, &c., shall for ever be, and reside, in a Governor-in-Chief and Council, appointed by their Majesties, their heirs and successors, and the people, by their representatives met and convened in General Assembly.

"That no freeman shall be taken or imprisoned, or be deprived of his freehold, or life, or liberty, or free customs, or out-

* See Shipley's Speech.

† This Act is very remarkable. It was drawn up by Messrs. *Tazewell* and *Emmett*, two gentlemen appointed by the governor for the purpose, and remained *six years* in England before there was a negative put upon it.

lawed, or exiled, or any otherways destroyed; nor shall be passed upon, adjudged, or condemned, but *by the lawful judgment of his peers, and by the law of the province.*

"That no *aid*, *tax*, *tallage*, *custom*, *loan*, *benevolence*, *gift*, *excise*, *duty*, or *imposition whatsoever*, shall be laid, assessed, imposed, levied, or required of, or on, any of their Majesties' subjects within this province, &c., or their estates, *upon any manner of color or pretence whatsoever*, but by the act and consent of the Governor and Council, and Representatives of the people, in General Assembly met and convened."

This Act shows clearly, the sense of His Majesty's representative, his Council, and the Assembly of this Province, above *eighty years* ago, which was, that the supreme legislative authority, and the exclusive power of taxation, should for ever be, and reside, in a Governor-in-Chief and Council, appointed by their Majesties, their heirs and successors; and the people by their representatives, met and convened in General Assembly.

We may also infer from hence, that the other colonies actually enjoyed similar privileges at that time: for it would have been the height of presumption, in this province, to claim such important immunities, had not the others been in possession of the like.

This Act, of itself, confutes all that has been said concerning the novelty of our present claims; and proves, that the injurious reflections on the Congress, for having risen in their demands, are malicious and repugnant to truth.

You have produced some expressions of the Congress and Assembly of this province, in 1765, which you lay great stress upon. The true meaning of them may be gathered from the following passage, which is taken from the same piece that contains the expressions in question. The Congress speak thus: "It is humbly submitted, whether there be not a material distinction, in reason and sound policy at least, between the necessary exercise of parliamentary jurisdiction, in general Acts for the amendment of the common law, and the regulation of trade and commerce through the whole empire; and the exercise of that jurisdiction by imposing taxes on the colonies."

They allow only a power of making *general Acts* for the amendment of the *common law*, and for the general regulation of trade. As to any special laws to bind the colonies, in particular, they never intended submission to these; nor could they intend a right to impose special duties, of any kind, for the purpose of raising a revenue; which is, to all intents and purposes, a species of taxation.

The Resolves of our Assembly, the last day of December, 1771, about three years afterwards, will serve as a full explanation. "As it is not only the common birthright of all his Majesty's subjects, but is also essential to the preservation of the peace, strength, and prosperity of the British empire, that an *exact equality of constitutional rights*, among all his Majesty's subjects, in the several parts of the empire, be uniformly and invariably maintained and supported; and as it would be inconsistent with the constitutional rights of his Majesty's subjects in Great Britain, to tax them, either in person or estate, without the consent of their representatives, in Parliament assembled: It is therefore

Resolved, *nemine contradicente:*

"That it is the opinion of this Committee, that *no tax under any name, or denomination, or on any pretence, or for any purpose whatsoever*, can or ought to be imposed, or levied, upon the persons, estates, or property, of his Majesty's good subjects within this colony, *but of their free gift, by their representatives lawfully convened in General Assembly.*

"That it is the opinion of this Committee, that this colony lawfully and constitutionally has, and enjoys, an internal legislature, in which the Crown and the people of this colony, are constitutionally represented: and that *the power and authority of the said legislature cannot lawfully or constitutionally be suspended, abridged, abrogated, or annulled, by any power or prerogative whatsoever;* the prerogative of the Crown, ordinarily exercised for prorogations and dissolutions, only excepted."

A supreme authority, in the Parliament, to make any special laws for this province, consistent with the internal legislature

here claimed, is impossible, and cannot be supposed, without falling into that solecism in politics, of *imperium in imperio.*

I imagine, sir, I have, by this time, pretty fully and satisfactorily answered every thing contained in your letter of any consequence. The parts I have left unattended to, are such as cannot operate, materially, to the prejudice of the cause I espouse; but I should not have neglected them, had it not been, that I have already taken a very ample range; and it would, perhaps, be imprudent to delay a conclusion.

Whatever opinion may be entertained of my sentiments and intentions, I attest that Being, whose all-seeing eye penetrates the inmost recesses of the heart, that I am not influenced (in the part I take) by any unworthy motive.—That, if I am in an error, it is my judgment, not my heart, that errs.—That I earnestly lament the unnatural quarrel between the parent State and the colonies; and most ardently wish for a speedy reconciliation—a perpetual and *mutually* beneficial union.—That I am a warm advocate for limited monarchy, and an unfeigned well-wisher to the present Royal Family.

But, on the other hand, I am inviolably attached to the essential rights of mankind, and the true interests of society. I consider civil liberty, in a genuine, unadulterated sense, as the greatest of terrestrial blessings. I am convinced, that the whole human race is entitled to it; and that it can be wrested from no part of them, without the blackest and most aggravated guilt.

I verily believe, also, that the best way to secure a permanent and happy union between Great Britain and the colonies, is to permit the latter to be as free as they desire. To abridge their liberties, or to exercise any power over them, which they are unwilling to submit to, would be a perpetual source of discontent and animosity. A continual jealousy would exist on both sides. This would lead to tyranny on the one hand, and to sedition and rebellion on the other. Impositions, not really grievous in themselves, would be thought so; and the murmurs arising from thence, would be considered as the effect of a turbulent, ungovernable spirit. These jarring principles would at

length throw all things into disorder, and be productive of an irreparable breach, and a total disunion.

That harmony and mutual confidence may speedily be restored between all the parts of the British empire, is the favorite wish of one who feels the warmest sentiments of good will to mankind; who bears no enmity to you; and who is

A Sincere Friend to America.

REMARKS ON THE QUEBEC BILL.

1775.

NO. I.

In compliance with my promise to the public, and in order to rescue truth from the specious disguise with which it has been clothed, I shall now offer a few remarks on the Act, entitled "An Act for making more effectual provision for the government of the province of Quebec in North America;" whereby I trust it will clearly appear, that arbitrary power, and its great engine, the Popish religion, are, to all intents and purposes, established in that province.

While Canada was under the dominion of France, the French laws and customs were in force there; which are regulated in conformity to the genius and complexion of a despotic constitution; and expose the lives and properties of subjects to continual depredations from the malice and avarice of those in authority. But when it fell under the dominion of Great Britain, these laws, so unfriendly to the happiness of society, gave place, of course, to the milder influence of the English laws; and his Majesty, by proclamation, promised to all those who should settle there, a full enjoyment of the rights of British subjects. In violation of this promise, the Act before us declares, "That the said proclamation, and the commission under the authority whereof the government of the said province is at present administered, be, and the same are, hereby revoked, annulled, and made void, from and after the first day of May, one thousand seven hundred and seventy-five." This abolition of the privileges stipulated by the

proclamation, was not inflicted as a penalty for any crime by which a forfeiture had been incurred; but merely on pretence of the present form of government having been found by experience to be inapplicable to the state and circumstances of the Province.

I have never heard any satisfactory account concerning the foundation of this pretence; for it does not appear, that the people of Canada, at large, ever expressed a discontent with their new establishment, or solicited a restoration of their old. They were, doubtless, the most proper judges of the matter, and ought to have been fully consulted before the alteration was made. If we may credit the general current of intelligence which we have had respecting the disposition of the Canadians, we must conclude they are averse to the present regulation of the Parliament, and had rather continue under the form of government instituted by the Royal proclamation.

However this be, the French laws are again revived. It is enacted, "That in all matters of controversy relative to property and civil rights, resort shall be had to the laws of Canada, as the rule for the decision of the same: and all causes that hereafter shall be instituted in any of the Courts of justice, shall, with respect to such property and rights, be determined agreeably to the said laws and customs of Canada, until they shall be varied and altered by any ordinances that shall, from time to time, be passed in the said province, by the Governor, Lieutenant-Governor, or Commander-in-Chief for the time being, by and with the advice and consent of the Legislative Council of the same." Thus the ancient laws of Canada are restored, liable to such variations and additions as shall be deemed necessary by the Governor and Council: and as both the one and the other are to be appointed by the King during pleasure, they will be all his creatures, and entirely subject to his will, which is thereby rendered the original fountain of law: and the property and civil rights of the Canadians are made altogether dependent upon it: because the power communicated, of varying and altering, by new ordinances, is indefinite and unlimited. If this does not make the king absolute in Canada, I am at a loss for any tolerable idea of absolute authority; which I have ever thought

to consist, with respect to a monarch, in the power of governing his people according to the dictates of his own will. In the present case, he has only to inform the Governor and Council, what new laws he would choose to have passed, and their situation will insure their compliance.

It is further provided, "That nothing contained in the Act, shall extend, or be construed to extend, to prevent or hinder his Majesty, his heirs, and successors, from erecting, constituting, and appointing, from time to time, such courts of criminal, civil, and ecclesiastical jurisdiction, within and for the said province of Quebec, and appointing, from time to time, the judges and officers thereof, as his Majesty, his heirs and successors, shall think necessary for the circumstances of the said province."

Here a power of a most extraordinary and dangerous nature is conferred. There must be an end of all liberty where the prince is possessed of such an exorbitant prerogative as enables him, at pleasure, to establish the most iniquitous, cruel, and oppressive courts of criminal, civil, and ecclesiastical jurisdiction; and to appoint temporary judges and officers, whom he can displace and change as often as he pleases. For what can more nearly concern the safety and happiness of subjects, than the wise economy, and equitable constitution of those courts in which trials for life, liberty, property, and religion, are to be conducted? Should it ever comport with the designs of an ambitious and wicked minister, we may see an Inquisition erected in Canada; and priestly tyranny hereafter find as propitious a soil in America, as it ever has in Spain or Portugal.

But in order to varnish over the arbitrary complexion of the Act, and to conciliate the minds of the Canadians, it is provided, "That whereas, the certainty and lenity of the criminal law of England, and the benefits and advantages resulting from the use of it, have been sensibly felt by the inhabitants, from an experience of more than nine years: Therefore, the same shall be administered, and shall be observed as law, in the province of Quebec, to the exclusion of every rule of criminal law which did, or might, prevail in said province before the year one thousand seven hundred and sixty-four."

As "it is in the goodness of criminal laws, that the liberty of the subject principally depends,"* this would have been an important privilege, had it not been rendered uncertain and alienable by the latter part of the same clause, which makes them "subject to such alterations and amendments, as the Governor, Lieutenant-Governor, and Commander-in-Chief for the time being, by and with the advice and consent of the Legislative Council of the same, shall, from time to time, cause to be made therein."

Under the notion of necessary alterations and amendments, the King, through the medium of his creatures, the Governor and Council, may entirely new mould the criminal laws of Canada, and make them subservient to the most tyrannical views. So that, in this respect, also, the principle of arbitary power, which is the soul of the Act, is uniformly maintained and preserved, in full vigor, without the least real or effectual diminution.

It has been denied, with the most palpable absurdity, that the right of trial by juries is taken from the Canadians. It is said, that the provincial legislature of Canada may introduce them as soon as they please; and it is expected that they will, "as soon as the inhabitants desire them," or "the state of the country will admit of them."

A civil right is that, which the laws and the constitution have actually conferred; not that which may be derived from the future bounty and beneficence of those in authority. The possibility that the Legislature of Canada may hereafter introduce trials by juries, does not imply a right in the people to enjoy them. For in the same sense it may be said, that the inhabitants of France, or Spain, have a right to trial by juries, because it is equally in the power of their legislatures to establish them.

Since, therefore, it is apparent, that a system of French laws has been established in the province of Quebec; and an indefinite power vested in the King, to vary and alter these laws; as also to constitute such courts of criminal, civil, and ecclesiastical jurisdiction; and to introduce such a form of criminal law as he shall judge necessary; I say, since all this is deducible from the

* Montesquieu.

express letter of the Act; or, in other words, since the whole Legislative, Executive, and Judiciary powers, are ultimately and effectually, though not immediately, lodged in the King; there can be no room to doubt, that an arbitrary government has been really instituted throughout the extensive region now comprised in the province of Quebec.

NO. II.

Having considered the nature of this Bill with regard to civil government, I am next to examine it with relation to religion; and to endeavor to show, that the Church of Rome has now the sanction of a legal establishment in the province of Quebec.

In order to do this the more satisfactorily, I beg leave to adopt the definition given of an established religion, by a certain writer who has taken great pains to evince the contrary. "An established religion," says he, "is a religion which the civil authority engages, not only to protect, but to support." This Act makes effectual provision, not only for the protection, but for the permanent support of popery; as is evident from the following clause: "And for the more perfect security and ease of the minds of the inhabitants of the said province, it is hereby declared, that his Majesty's subjects, professing the religion of the Church of Rome, in the said province, may have, hold, and enjoy, the free exercise of the religion of the Church of Rome, subject to the King's supremacy, &c.; and that the clergy of the said Church, may hold, receive, and enjoy, their accustomed dues and rights, &c."

This is represented as a bare permission to the clergy, to enjoy the usual emoluments of their functions, and not as a legal provision for their support. Much stress seems to be laid on the word "*may*," which is commonly italicised. But though the phraseology be artful, yet it is easy to perceive, that it operates to the same effect as if it had been more positive and emphatical.

The clergy "may hold, receive, and enjoy, their accustomed dues and rights." They may if they please. It is at their op-

tion, and must depend upon their will; and, consequently, there must be a correspondent obligation upon their parishioners to comply with that will, and to pay those dues when required. What the law gives us an unconditional permission to enjoy, no person can legally withhold from us. It becomes our property, and we can enforce our right to it. If the Legislature of this colony were to decree, that the clergy of the different denominations, may hold, receive, and enjoy, tithes of their respective congregations; we should soon find that it would have the same efficacy as if it were decreed, that the several congregations should pay tithes to their respective clergy. For, otherwise, the Legislature might confer a right which had no correlative obligation; and which must, therefore, be void and inefficacious. But this is contradictory and impossible.

"Tithes in Canada," it is said, "are the property of the Roman Church: and permitting a tolerated Church to enjoy its own property, is far short of the idea of an establishment." But I should be glad to know, in the first place, how tithes can be the property of any but of an established church? And in the next, how they came to be the property of the Romish Church in Canada, during the intermediate space between the surrender of that province to the English, and the passing of this Act? Nothing can be deemed my property, to which I have not a perfect and uncontrollable right by the laws. If a church have not a similar right to tithes, it can have no property in them; and if it have, it is plain the laws must have made provision for its support, or in other words, must have established it.

Previous to the surrender of Canada, the Catholic religion was established there by the laws of France; and tithes were, on that account, the legal property of the Church of Rome; and could not be withheld by the laity, though ever so much disposed to it. But after the surrender, this circumstance took a different turn. The French laws being no longer in force, the establishment of the Romish Church ceased of course; and with it, the property which it before had in tithes.

It is true, the clergy may have continued to receive and enjoy their customary dues, tithes, and other perquisites: but they

were not, for all that, the property of the Church; because it had lost its legal right to them, and it was at the discretion of the laity to withhold them, if they had thought proper; or to abridge them, and place them upon a more moderate footing. Their voluntary concurrence was necessary to give their priests a right to demand them as before. But by the late Act, this matter is again put into its former situation. Tithes are now become the *property* of the Church, as formerly; because it again has a legal claim to them; and the conditional consent of the people is set aside. Thus we see, that this Act does not, in fact, permit a tolerated church to enjoy "its own property," but gives it a real and legal property in that which it before held from the bounty and liberality of its professors; and which they might withhold, or diminish, at pleasure: and this, in the most proper sense, converts it into an establishment.

The characteristic difference between a tolerated and established religion, consists in this: With respect to the support of the former, the law is passive and improvident, leaving it to those who profess it, to make as much, or as little, provision as they shall judge expedient; and to vary and alter that provision, as their circumstances may require. In this manner, the Presbyterians, and other sects, are tolerated in England. They are allowed to exercise their religion without molestation, and to maintain their clergy as they think proper. These are wholly dependent upon their congregations, and can exact no more than they stipulate and are satisfied to contribute. But with respect to the support of the latter, the law is active and provident. Certain precise dues, (tithes &c.,) are legally annexed to the clerical office, independent on the liberal contributions of the people; which is exactly the case with the Canadian priests; and therefore, no reasonable, impartial man, will doubt that the religion of the Church of Rome is established in Canada. While tithes were the free, though customary, gift of the people, as was the case before the passing of the Act in question, the Roman Church was only in a state of toleration: but when the law came to take cognizance of them, and, by determining their permanent existence, destroyed the free agency of the people, it then re-

sumed the nature of an establishment, which it had been divested of at the time of the capitulation.

As to the Protestant religion; it is often asserted that ample provision has been made by the Act, for its future establishment: to prove which, the writer before mentioned, has quoted a clause in the following mutilated manner: "It is provided," says he, "that his Majesty, his heirs or successors, may make such provision out of the accustomed dues, or rights, for the encouragement of the Protestant religion, and for the maintenance of a Protestant clergy within the said province, as he or they shall, from time to time, think necessary and expedient."

It must excite a mixture of anger and disdain to observe the wretched arts to which a designing administration, and its abettors, are driven, in order to conceal the enormity of their measures. This whole clause, in its true and original construction, is destitute of meaning; and was evidently inserted for no other end than to *deceive* by the *appearance* of a provident regard for the Protestant religion. The Act first declares, "That his Majesty's subjects, professing the religion of the Church of Rome, may have and enjoy the free exercise of their religion; and that the clergy of the said church, may hold, receive, and enjoy their accustomed dues and rights." Then follows this clause: "Provided, nevertheless, that it shall be lawful for his Majesty, his heirs and successors, to make such provision out of the rest of the said accustomed dues and rights, for the encouragement of the Protestant religion, for the maintenance and support of a Protestant clergy within the said province, as he or they shall, from time to time, think necessary and expedient."

Thus we see, the Romish clergy are to have, hold, and enjoy, their accustomed dues and rights; and the *rest* and remainder of them, is to be applied towards the encouragement of the Protestant religion: but when they have had their wonted dues, I fancy it will puzzle administration, by any effort of political chemistry to produce the *rest*, or remainder. Suppose, for instance, A. made an actual settlement of a hundred pounds on B.; and, by a subsequent act, should declare that B. should continue to hold and enjoy his accustomed and annual bounty;

and that the *rest* of the said bounty should be given to C.: it is evident that C. would have nothing, because there would be no *rest* whatever. Exactly parallel and analogous is the case in hand. The Romish priests are to have their accustomed dues and rights; and the *rest* of the said dues and rights, is to be dedicated to the encouragement of the Protestant religion. In the above recited quotation, there is a chasm: the words "the *rest* of," being artfully omitted, to give the passage some meaning which it has not in itself. With this amendment, the sense must be, that his Majesty might appropriate what portion of the customary revenues of the Romish clergy he should think proper, to the support and maintenance of Protestant churches. But, according to the real words of the Act, he can only devote "the rest," or remainder, of such revenues to that purpose; which, as I have already shown, is nothing. So that the seeming provision in favor of the Protestant religion, is entirely verbal and delusory. Excellent must be the encouragement it will derive from this source. But this is not all. Had there been really provision made, to be applied at the discretion of his Majesty, I should still consider this Act as an atrocious infraction on the rights of Englishmen, in a point of the most delicate and momentous concern. No Protestant Englishman would consent to let the free exercise of his religion depend upon the mere pleasure of any man, however great or exalted. The privilege of worshipping the Deity, in the manner his conscience dictates, which is one of the dearest he enjoys, must, in that case, be rendered insecure and precarious. Yet this is the unhappy situation to which the Protestant inhabitants of Canada are now reduced.

The will of the king must give law to their consciences. It is in his power to keep them for ever dispossessed of all religious immunities; and there is too much reason to apprehend, that the same motives which instigated the Act, would induce him to give them as little future encouragement as possible.

I imagine it will clearly appear, from what has been offered, that the Roman Catholic religion, instead of being tolerated, as stipulated by the Treaty of Peace, is established by the late Act;

and that the Protestant religion has been left entirely destitute and unbefriended in Canada. But if there should be any who think that the indulgence granted, does not extend to a perfect establishment; and that it may be justified by the terms of the treaty, and the subsequent conduct of the Canadians; and if they should also be at a loss to perceive the dangerous nature of the Act, with respect to the other colonies; I would beg their further attention to the following considerations.

However justifiable this Act may be, in relation to the province of Quebec, with its ancient limits, it cannot be defended by the least plausible pretext, when it is considered as annexing such a boundless extent of new territory to the old.

If a free form of government had "been found by experience to be inapplicable to the state and circumstances of the province;" and if "a toleration less generous, although it might have fulfilled the letter of the articles of the treaty, would not have answered the expectations of the Canadians, nor have left upon their minds favorable impressions of British justice and honor;" if these reasons be admitted as true, and allowed their greatest weight, they only prove that it might be just and politic to place the province of Quebec, alone, with its former boundaries, in the circumstances of civil and religious government which are established by this Act. But when it is demanded, Why it has also added the immense tract of country that surrounds all these colonies, to that province, and has placed the whole under the same exceptionable institutions, both civil and religious?—the advocates for administration must be confounded and silent.

This Act developes the dark designs of the ministry more fully than any thing they have done; and shows that they have formed a systematic project of absolute power.

The present policy of it is evidently this. By giving a legal sanction to the accustomed dues of the priests, it was intended to interest them in behalf of the administration; and by means of the dominion they possessed over the minds of the laity, together with the appearance of good will towards their religion, to prevent any dissatisfaction which might arise from the loss of

their civil rights; and to propitiate them to the great purposes in contemplation; first, the subjugation of the colonies; and afterwards, that of Great Britain itself. It was necessary to throw out some such lure to reconcile them to the exactions of that power which has been communicated to the King, and which the emergency of the times may require in a very extensive degree.

The future policy of it demands particular attention. The nature of its civil government will hereafter put a stop to emigrations from other parts of the British dominions thither, and from all other free countries. The pre-eminent advantages secured to the Roman Catholic religion, will discourage all Protestant settlers, of whatever nation; and on these accounts, the province will be settled and inhabited by none but Papists. If lenity and moderation are observed in administering the laws; the natural advantages of this fertile infant country, united to the indulgence given to their religion, will attract droves of emigrants from all the Roman Catholic States in Europe: and these colonies, in time, will find themselves encompassed with innumerable hosts of neighbors, disaffected to them, both because of difference in religion and government. How dangerous their situation would be, let every man of common sense judge.

What can speak in plainer language, the corruption of the British Parliament than this Act, which invests the King with absolute power over a little world (if I may be allowed the expression), and makes such ample provision for the Popish religion, and leaves the Protestant in such a dependent, disadvantageous situation; that he is like to have no other subjects in this part of his domain, than Roman Catholics, who, by reason of their implicit devotion to their priests, and the superlative reverence they bear those who countenance and favor their religion, will be the voluntary instruments of ambition, and will be ready, at all times, to second the oppressive designs of administration against the other parts of the empire.

Hence, while our ears are stunned with the dismal sounds of New England's Republicanism, bigotry, and intolerance; it behooves us to be upon our guard, against the deceitful wiles of

those who would persuade us, that we have nothing to fear from the operation of the Quebec Act. We should consider it as being replete with danger to ourselves, and as threatening ruin to our posterity. Let us not, therefore, suffer ourselves to be terrified at the prospect of an imaginary and fictitious Scylla; and, by that means, be led blindfold into a real and destructive Charybdis.

REORGANIZATION OF THE ARMY.

January 28, 1778.*

The numerous defects in our present military establishment, rendering many reformations and many new arrangements absolutely necessary, and Congress having been pleased to appoint you a committee, in concert with me, to make and recommend such as shall appear eligible, in pursuance of the various objects expressed in the resolution, for that purpose; I have, in the following sheets, briefly delivered my sentiments upon such of them as appeared to me most essential, so far as observation has suggested and leisure permitted. These are submitted to consideration, and I shall be happy, if they are found conducive to remedying the evils and inconveniences we are now subject to, and putting the army upon a more respectable footing. Something must be done; important alterations must be made; necessity requires that our resources should be enlarged and our system improved, for without it, if the dissolution of the army should not be the consequence, at least its operations must be feeble, languid, and ineffectual.

As I consider a proper and satisfactory provision for officers, as the basis of every other arrangement and regulation necessary to be made, since without officers no army can exist; and unless some measures be devised to place those officers in a more desirable condition, few of them would be able, if willing,

* This important communication was addressed by Washington to the committee of Congress, in camp at Valley Forge. It is printed from two incomplete drafts in the handwriting of Hamilton. The copy is not found among the archives.

to continue in it, I shall begin with a few reflections tending to prove the necessity of

A Half-pay and Pensionary Establishment.

A small knowledge of human nature will convince us, that with far the greatest part of mankind, interest is the governing principle, and that almost every man is more or less under its influence. Motives of public virtue may, for a time, or in particular instances, actuate men to the observance of a conduct purely disinterested, but they are not sufficient of themselves to produce a persevering conformity to the refined dictates of social duty. Few men are capable of making a continual sacrifice of all views of private interest or advantage, to the common good. It is in vain to exclaim against the depravity of human nature on this account, the fact is so, the experience of every age and nation has proved it, and we must in a great measure change the constitution of man, before we can make it otherwise. No institution not built on the presumptive truth of these maxims can succeed.

We find them exemplified in the American officers as well as in all other men. At the commencement of the dispute, in the first effusions of their zeal, and looking upon the service to be only temporary, they entered into it, without paying any regard to pecuniary or selfish considerations. But, finding its duration to be much longer than they at first expected, and that instead of deriving any advantage from the hardships and dangers to which they were exposed, they, on the contrary, were losers by their patriotism, and fell far short even of a competency to supply their wants; they have gradually abated in their ardor, and, with many, an entire disinclination to the service, under its present circumstances, has taken place. To this, in an eminent degree, must be ascribed the frequent resignations daily happening, and the more frequent importunities for permission to resign, and from some officers of the greatest merit. To this also, may we ascribe the apathy, inattention and neglect of duty, which pervade all ranks, and which will necessarily continue and

increase, while an officer, instead of gaining, is impoverished by his commission, and conceives he is conferring, not receiving, a favor in holding it. There can be no tie upon men possessing such sentiments, nor can we adopt any method to oblige those to a punctual discharge of their duty, who are indifferent about their continuance in the service, and are often seeking a pretext to disengage themselves from it. Punishment, in this case, will be unavailing; but when an officer's commission is made valuable to him, and he fears to lose it, then may you exact obedience from him.

It is not indeed consistent with reason or justice, to expect, that one set of men should make a sacrifice of property, domestic ease and happiness, encounter the rigors of the field, the perils and vicissitudes of war, to obtain those blessings which every citizen will enjoy in common with them, without some adequate compensation.

It must also be a comfortless reflection to any man, that, after he may have contributed to the securing the rights of his country at the risk of his life and the ruin of his fortune, there would be no provision, to prevent himself and family, from sinking into indigence and wretchedness. I urge these sentiments with the greater freedom, because I cannot, and shall not receive the smallest benefit from the establishment, and have no other inducement for proposing it, than a full conviction of its utility and propriety.

* * * *

Of completing the Regiments and altering their establishment.

The necessity of the first, in the most expeditious manner possible, is too self-evident to need illustrations or proof; and I shall, therefore, only beg leave to offer some reflections on the mode. Voluntary enlistments seem to be totally out of the question; all the allurements of the most exorbitant bounties, and every other inducement that could be thought of, have been tried in vain, and seem to have had little other effect than to increase the rapacity and raise the demands of those to whom they were held out. We may fairly infer that the country has

been already pretty well drained of that class of men whose tempers, attachments, and circumstances disposed them to enter permanently, or for a length of time, into the army; and that the residue of such men, who, from different motives, have kept out of the army, if collected, would not augment our general strength in any proportion to what they require. If experience has demonstrated that little more can be done by voluntary enlistments, some other mode must be concerted, and no other presents itself than that of filling the regiments by drafts from the militia. This is a disagreeable alternative, but it is an unavoidable one.

As drafting for the war, or for a term of years, would probably be disgusting and dangerous, perhaps impracticable, I would propose an annual draft of men, without officers, to serve till the first day of January in each year. That on or before the first day of October preceding, these drafted men should be called upon to re-enlist for the succeeding year; and as an incitement to doing it, those being much better and less expensive than raw recruits, a bounty of twenty-five dollars should be offered. That upon ascertaining at this period the number of men willing to re-engage, exact returns should be made to Congress of the deficiency in each regiment and transmitted by them to the respective States, in order that they may have their several quotas immediately furnished and sent on to camp, for the service of the ensuing year, so as to arrive by or before the first day of January.

This method, though not so good as that of obtaining men for the war, is, perhaps, the best our circumstances will allow; and as we shall always have an established corps of experienced officers, may answer tolerably well. It is the only mode I can think of for completing our battalions in time, that promises the least prospect of success; the accomplishment of which is an object of the last importance; and it has this advantage, that the minds of the people being once reconciled to the experiment, it would prove a source of continual supplies hereafter.

Men drafted in this manner, should not, in the first instance, receive any bounty from the public; which being solemnly en-

joined upon each State, and a stop put to the militia substitution laws, would probably be attended with very happy consequences.

A number of idle mercenary fellows would be thrown out of employment, precluded from their excessive wages as substitutes for a few weeks or months, and constrained to enlist in the Continental army. In speaking of abolishing the militia substitution laws, it is not meant to hinder a person who might be drafted in the annual allotments from procuring a substitute in his stead, himself in consequence being excused. This indulgence would be admissible, and, considering all things, necessary, as there are many individuals whose dispositions and private affairs would make them irreconcileably averse from giving their personal services for so long a duration, and with whom it would be impolitic to use compulsion. The allowance of substitution upon a smaller scale, in the occasional coming out of the militia for a few weeks, a month or two, is the thing meant to be reprobated. It is highly productive of the double disadvantage of preventing the growth of the army and depreciating our currency.

* * * *

In the new establishment of a Regiment, as apparent inconveniences result from the enemy's having no full Colonels in their army, distinctly such, to exchange with ours in case of captivity, I would propose that our battalions should be commanded by Lieutenant-Colonels commandant, with the pay of Colonel, and consist of the following officers and men:—1 Lieutenant-Colonel commandant; 1 Lieutenant-Colonel; 1 Major; 9 Captains; 9 Lieutenants; 9 Ensigns; an Adjutant, Quarter-Master, Pay-Master, Sergeant, Drum and Fife Major, 27 Sergeants, 18 Drums and Fifes, and 504 rank and file.

These I would propose to have divided into eight companies, and that a Captain, Lieutenant, Ensign, 3 Sergeants, 2 drums and fifes and 56 rank and file be selected from the whole to compose a company of Light Infantry. That the Infantry from each brigade be commanded by a field officer belonging to it; if officers, by the reduction of corps and otherwise unprovided for, are not appointed to these commands—a mode preferable to that

of drafting from the brigades, as a means of doing the officers justice, and because the brigades must miss the field officers taken from them, for this purpose, and that the whole be under the command of General officers of the line, chosen by the Commander-in-Chief. This body would compose the flying army, and in conjunction with a body of horse become extremely formidable and useful.

The benefits arising from a superiority of horse are obvious to those who have experienced them. Independent of such as you may derive from it in the field of battle, it enables you very materially to control the inferior and subordinate motions of an enemy—to impede their knowledge of what you are doing; while it gives you every advantage of superior intelligence, and consequently facilitates your enterprise against them and obstructs theirs against you. In a defensive war, as in our case, it is peculiarly desirable, because it affords great protection to the country, and is a barrier to those inroads and depredations upon the inhabitants, which are inevitable when the superiority lies on the side of the invaders. The enemy, fully sensible of the advantages, are taking all the pains in their power to acquire an ascendency in this respect, to defeat which, I would propose an augmentation of the cavalry, by adding a Lieutenant, a Sergeant, Corporal, and privates to each troop. The establishment will then be as follows:—1 Colonel; 1 Lieutenant-Colonel; 1 Major; 6 Captains; 12 Lieutenants; 6 Cornets; 1 Adjutant; 1 Quarter-Master; 1 Saddler; 6 Farriers; 6 Quarter-Master Sergeants; Sergeants; Corporals; Trumpeters; Privates; all as usual except 6 additional Lieutenants.

There are, and will continue, four regiments of Cavalry, which, composing a brigade, will require a Brigadier, Brigade-Major, Quarter-Master, Commissary and Forage-Master, as usual.

The men for this service can easily be gotten; the providing horses and accoutrements will be found to suffer some difficulty, yet will not be impracticable. The procuring horses would be undertaken by judicious officers, from each regiment, well skilled in them, and conducted in such a manner as to occasion no interference with each other. Let Sheldon's purchases be confined to

the eastward of the North River; Moylan's between the North River and the Susquehanna; Baylor's between Susquehanna and James River; and Bland's to the southward of that. The number of horses purchased by each, ought to be determined, and an average price limited, disclosed only to the purchaser, with a strict injunction to conceal it as much as possible; because, if once generally known, sellers would take advantage of it, and part with none under the limitation.

The accoutrements ought to be provided in the same districts, and by the same persons, but as some of these districts abound more in manufactures than others, all that can be engaged in each, in a certain stipulated time, ought to be secured, in order that the overplus in one part, may supply the deficiency in another. And as these articles may be imported cheaper and better in quality, than they can be made here, I would advise, that at least fifteen hundred sets may be sent for to France, with directions to divide them into small parcels, and embark them in different vessels, that we may have a probability of getting at least a part, and not be in danger of sustaining a total loss and disappointment, by adventuring the whole in one bottom.

Of the Arrangement of the Army.

The establishment of a battalion being fixed under the last head, it remains to ascertain the number of battalions, in order to form a proper arrangement. The number of battalions now in the field, from each State, stands thus:—New Hampshire 3, Massachusetts 15, Rhode Island 2, Connecticut 8, New-York 4, New Jersey 4, Pennsylvania 12, Col. W. Stewart's 1, Delaware 1, Maryland 7, Virginia 15, one State do. 1, Carolina 9, German battalion 1, Hazen's regiment 1, additional and parts 13.—Total, 97.

By the foregoing list, it appears, that in regiments and parts of regiments there are ninety-seven now in the field; the state of them requires explanation.

Out of nine from North Carolina, by a return of the 31st ult., only 572, rank and file, are fit for duty. These, with seventy-one sick present, and 137 on command, make 780, rank and

file, which I suppose may be produced. The total number, rank and file, in the nine regiments, is 1079; the difference is accounted for in sick, absent, and on furlough; which is the only way, I am apprehensive, they ever will be accounted for. From this defective state of them, I should think it advisable, to throw the rank and file of the nine regiments into two (they have already been reduced to three), and to send the supernumerary officers back to the State, to collect such men, as on various pretences were left behind, and deserters. And aided by the whole efficiency of the State, voluntary enlistments, being, as I said before, out of the question; to exert their endeavors towards completing the seven other regiments, or such of them as Congress shall direct. These new raised corps may either join this army, or aid South Carolina or Virginia, as circumstances shall point out.

I am the more induced to recommend this measure from the possibility of the enemy's attempting a more Southern expedition the next campaign. This they may do, in order to gain possession of the capital of another State, which will give reputation to their arms in Europe, distress our trade, and abridge our supplies; at the same time, will enable ADMINISTRATION, in another instance, to avail themselves of the illusory idea, they endeavor to hold up to the nation—to keep its hopes alive, and extract fresh contributions—that every State, whose capital is possessed, is conquered.

Virginia, I understand, though not from any direct authority, has resolved to draft towards the completion of her battalions; and as this mode seems to be the only one calculated to answer the end, it is to be hoped she will be able to furnish her full complement of fifteen, including the State regiment. What plan Maryland has fallen upon, or may adopt, to fill her battalions I know not, but as the powers of government are with her in full vigor, and the abilities of the State entirely adequate, I think her original quota ought to be depended upon. Delaware must, undoubtedly, contribute one battalion; no change having happened since that portion was assigned her, sufficient to afford a plea for reducing it. In behalf of Pennsylvania, much

may be said; the exhausted state of her regiments; loss of her capital, and intestine divisions, ever destructive to the energy of government, may perhaps incapacitate her from completing her thirteen regiments now on foot. I suppose the number should be, for the present, diminished to eight, and the State should exert herself to fill them in the first place. When this shall be accomplished, if her resources appear equal to any further efforts, she may proceed to raising the remaining five. Jersey, New-York, Connecticut, Rhode Island, Massachusetts, and New Hampshire, are fully competent to the quotas respectively required of them, and no abatement seems necessary with respect to either. We have reason to hope their exertions will keep pace with their abilities, and that they will take decisive measures to send their several proportions into the field. I am at a loss what to propose concerning the German battalion; Hazen's regiment, and the sixteen additionals. Appertaining to no particular State or States, they will have no chance of being filled by drafts, and as little by any other means. They must either remain weak and imperfect corps; be adopted by the States, or incorporated into each other, and then, if possible, be recruited. The first, upon every principle, ought not to be the case, and as the second would not be altogether eligible, from the difficulty of apportioning them without dividing and subdividing the regiments; the third seems to be the expedient to which we must have recourse. Let Maryland take the German battalion, wholly, as one of her eight, for she already claims a part of it; and then let the sixteen additionals, none of which are strong, some extremely weak, and others only partly organized, be thrown into nine. There is this number of them, which, comparatively speaking, are tolerably respectable, and have undergone a good deal of hard service in the course of the campaign. These, after having received the men out of the reduced corps, licensed, though a barren experiment, ought to try what can be done by voluntary enlistments, throughout the Continent at large. Hazen's regiment might be added to them, and united in the same privilege.

If these propositions are approved the whole number of bat-

talions on the establishment will be eighty, and if complete, the total amount of them 40,320 rank and file. Upon this number of battalions, I shall make my arrangements. Whether full or not they will require to be thrown into brigades and (*desunt.*)

Of Auditors of Accounts.

The want of such an institution has been much felt, and I am happy it is at length adopted. The sooner the gentlemen appointed enter upon the execution of their office the better, as much necessary business wants their regulating hand. The public has sustained a loss of many thousands, which might have been prevented, by the negligence and death of numberless officers.

Having run through the different distributions of the army as composed of horse and foot, with all the departments dependent thereon, and offered such remarks as occurred to me on the several subjects, I proceed to the mention of two departments commonly considered as separate and distinct—the artillery and engineering.

Artillery.

This department, if the arrangements and measures concerted met with proper countenance and support, bids fair to be upon a very respectable establishment. A plan was agreed upon not long since between General Knox and myself for the formation of four battalions, which was intended to be presented to Congress, that if approved by them it might be recommended to the several States. It is now submitted to the consideration of the Committee.

Engineering.

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Paymaster General.

This department is well conducted, so far as depends upon the gentleman at the head of it, but the want of money, which too frequently happens, is extremely injurious to our affairs. It is

unnecessary to observe, that besides feeding and clothing a soldier well, nothing is of greater importance than paying him punctually; and it is perhaps more essential in our army than any other, because our men are worse supplied and more necessitous; and the notions of implicit subordination not being as yet sufficiently ingrafted among them, they are more apt to reason upon their rights, and rendered readier to manifest their sensibility of any thing that has the appearance of injustice to them, in which light they consider their being kept out of their pay after it is due. Nor does the evil end here. The inhabitants who, through choice, accident, or necessity, have any pecuniary concerns with the army, finding themselves frequently disappointed in the payments they have a right to expect, grow dissatisfied and clamorous; the credit of the army, and which is nearly the same thing, the credit of the Continent is impaired, our supplies of course are impeded, and the price of every article we want raised. This circumstance is not among the least causes of the depreciation of the currency.

A question has arisen whether officers, prisoners with the enemy, who come out on parole, and are not provided for by any actual appointments, are entitled to pay during

A Resolve of Congress of the 19th instant provides, that all continental officers, prisoners with the enemy, either while in confinement, or on parole, so long as they continue officers of the United States, shall be entitled to their pay and rations, liable to a deduction for what they may have received in confinement; and that all flying camp and militia officers should be entitled to the same while in confinement only. This resolve excludes from pay all officers liberated on parole, who have not actual appointments in the continental army. Will it not be deemed a hardship and injustice to such officers, especially to those who merely from their absence have been neglected in arrangements posterior to their capture, as has been too much the case?

While they continue prisoners, whether in possession of the enemy, or out on parole, they can have little opportunity of prosecuting any business for a livelihood, and must be in a distress-

ful situation, unless they have a private fortune sufficient to maintain them. It has, in many instances, happened that officers in captivity have been omitted in promotions made in their absence, upon which a question has arisen, whether there should not be a restoration of rank with respect to those who are men of merit. It seems but reasonable there should.

Several new regulations will, I imagine, be found useful in the articles of war, which the judge advocate, from his official experience of the deficiency, can more accurately indicate. One thing we have suffered much from, is the want of a proper gradation of punishments. The interval between a hundred lashes and death is too great, and requires to be filled up by some intermediate stages. Capital crimes in the army are frequently commuted, particularly in the instance of desertion. Actually to inflict capital punishment or death upon every deserter, or other heinous offender, would incur the imputation of cruelty, and by the too common exhibition of the example, destroy its efficacy. On the other hand, to give only a hundred lashes to such criminals, is rather a burlesque on the crime than a serious correction, and affords encouragement to obstinacy and to imitation. The courts are often in a manner compelled, by the enormity of the facts, to pass sentences of death. I am as often obliged to remit, on account of the number in the same circumstances, and let the offenders pass wholly unpunished. This would be avoided, if there were other punishments short of the destruction of life, in some degree adequate to the crime. These the courts would ordain, and I should have executed. Crimes too are so various in their complexions, that to preserve the first rule of proportion there cannot be too great a variety in the * * * *

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The Position.

Unhappily, we begin to feel intensely some of the disadvantages apprehended from taking the present position of the army, instead of retiring into more commodious though more remote winter quarters. The present position of this army, adopted in

compliance with the prevailing current of sentiment among the people, and the apparent wish and inclination of Congress, is not without its inconveniences; no inconsiderable one is a scarcity of forage—an article no less essential to the well-being of an army than that of provisions. We have a number of horses dying daily for the want of provender. We are exhausting the small stock there is on the spot, which will probably be the immediate scene of our operations next campaign. We shall be likely to suffer still more at a more critical time.

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* * * * * seem always to be at variance, and recriminating the sufferings of the sick upon each other. The regimental surgeons complain that, for want of medicines and other necessaries, they are disabled from giving that assistance in slight cases, and in the first stages of dangerous complaints, which would serve to check their progress to maturity and save the lives of the soldiery. The hospital surgeons reply that their stores are incapable of bearing the excessive drafts which the profusion and carelessness of the regimental surgeons would make upon them if indulged in their demands.

I shall not attempt to decide the merits of this dispute, nor can I conceive any adequate mode of adjusting the difference. But one would imagine it might not be impossible to fix some general rule of allowance by which the supplies to the regimental surgeons might be regulated, and to make them accountable for the right and economical application of what they received.

At all events, as the accommodation of the sick, and the preservation of men's lives, are the first and great objects to be consulted, the regimental surgeons ought not to be destitute of a reasonable quantity of medicines and other conveniences of which the sick stand in need. The ill effects resulting from it are many and glaring.

Either, men, at every slight indication of disease, must be sent away to distant hospitals, and the army unnecessarily deprived of the services of numbers who, if the means were at hand, might in a day or two be restored; or, they must remain without pro-

per assistance, till their disorders confirm themselves, and with many get beyond the power of cure.

Other ill consequences that have attended the sending so many men away to a distance from the army, are desertions, and the waste of arms and clothing, for which reason it ought to be avoided as much as possible. To prevent these evils, as far as can be done, a field officer is stationed at each hospital to see the arms of the soldiers carefully deposited at their admission into it, take care of them in their convalescent state, and send them on to join their regiments under proper officers, as soon as they are fit for duty.

Consult General Knox about the 10th Article.

The Adjutant General about the 11th.

* * * * *

Upon the whole, Gentlemen, I doubt not you are fully impressed with the defects of our present military system, and of the absolute necessity of speedy and decisive measures to put it upon a satisfactory footing. The disagreeable picture I have given you of the wants and sufferings of the army, and the discontents reigning among the officers, is a just representation of evils equally melancholy and important; and unless effectual remedies be applied without loss of time, the most alarming and ruinous consequences are to be apprehended.

I have the honor to be,

With very great respect,

G. W.

INSPECTOR GENERAL.

Submitted by Washington to Congress. Draft by Hamilton, May 5, 1778.

One Inspector General. Six Deputy Inspectors General. One Inspector to each Brigade.

The business of the office, to form a system of manual and manœuvres, to concert all necessary regulations for the better government and arrangement of the army in all its departments.

The exercise of the same, of course, to be subordinate to Congress, the Board of War, and the Commander in-Chief. But the Inspector General, with the approbation and authority of the Commander-in-Chief, to have full power of establishing regulations for manœuvres, camp discipline, and every thing relating to the internal police of the army, all kinds of military duty in the field, in camp, in garrison, or in quarters; to define limits of the several departments, and adopt such amendments and changes as shall seem requisite. Provided no power be exercised to supersede or interfere with any positive institution made, or rules and regulations prescribed, by Congress or the Board of War; and provided, also, that this power do not extend to prescribing rules for the management of the horse and artillery in any thing that concerns them as distinct, separate corps, but only so far as they may be affected under the collective idea of an army, and in their common connection with it.

The gentlemen in this department to be considered as the instructors and censors of the army in every thing connected with discipline and arrangement. They are to superintend the execution of the regulations established, and to see that a due conformity to them is observed throughout the army.

They are to manœuvre the army agreeable to the rules laid

down under the orders of the Generals commanding. The Inspector General to exercise the whole under the directions of the Commander-in-Chief. His deputies, the wings or divisions under the direction of the Lieutenant or Major General commanding them; and the Inspectors to exercise the brigades under the direction of their Brigadiers.

The Inspector General to assist the Quartermaster General in forming all orders of march, the common order of battle, in choosing and arranging encampments, and in fixing guards, &c.

In action, and on marches, the Inspector General to be near the person of the Commander-in-Chief. The immediate assistants to be distributed to the different wings or divisions of the army, to promote order, and see that all the movements be properly performed. The Brigade Inspectors to be with their brigades for the same purposes.

These outlines of a plan for the office of the Inspector General are upon a larger scale than is actually practised in the European armies, but they are adapted to our circumstances, confused and inadequate as every department is, and calling for some general, regulating hand.

The person I would propose for Inspector General is the Baron Steuben. I have had much conversation with this gentleman, and believe him to be well qualified for the office. He appears to me to have an accurate knowledge of every part of military discipline and arrangements, and to be a man of sense and judgment.

Baron Arendt and Holtzendorf appear also to be men of science in their profession, and would make good deputies; but the Inspector General will require, for his immediate assistants, some men of intelligence and activity who are Americans. Otherwise, for want of the language and an acquaintance with the genius of our service and men, he would be involved in difficulties and mistakes that would defeat the end of the institution. From an ignorance of our tongue, being unable to communicate his ideas, he would be unqualified for the executive duties of his office; and from an ignorance of our present system, and the temper of our army, he might be for introducing too violent re-

volutions that would neither be practicable nor palatable. These assistants, or some of them, should be men of extensive abilities, skilled in the French language, of zeal, activity, and decision. I have not a sufficient knowledge of our officers to point out those who best answer this description; but Henly, Lee, Barber, and Scull, occur to me as men who might be very useful in this line; though I know not if either of them understand the French language.

The Brigade Inspectors should be officers drawn from the Brigade—the best qualified that can be found. The Baron Steuben, if appointed, as he has held high rank in the Prussian service, and has been Lieutenant General in the service of the Margrave de Baden, cannot with propriety accept of less rank than that of Major General.

The deputies Brigade Inspectors should have no increase of rank, but precisely the same which they may have held before their appointment to those offices. Those who are taken from the line, should preserve their stations in it, and rise in course.

There are two gentlemen out of this army, whom I should wish to be introduced into this department—General Cadwallader and Colonel Fleming. The former is a military genius, of a decisive and independent spirit, properly impressed with the necessity of order and discipline, and of sufficient vigor to enforce it. He would soon perfect himself in the practical part, and be fit to succeed to the first place in the department. Colonel Fleming is an excellent disciplinarian, and from long practice in the British army, has acquired the necessary knowledge.

PUBLIUS.

POUGHKEEPSIE, October 19, 1778.

MR. HOLT:

There are abuses in the State, which demand an immediate remedy. Important political characters must be brought upon the stage, and animadverted upon with freedom. The opinion I have of the independence of your spirit, convinces me you will ever be a faithful guardian of the liberty of the press, and determine me to commit to you the publication of a series of letters, which will give you an opportunity of exemplifying it.

The following is by way of prelude. You may depend I shall always preserve the decency and respect, due either to the government of the United States, or to the government of any particular State; but I shall not conceive myself bound to use any extraordinary ceremony with the characters of corrupt individuals however exalted their stations.

TO THE PRINTER OF THE NEW-YORK JOURNAL.

SIR:

While every method is taken to bring to justice those men, whose principles and practices have been hostile to the present revolution; it is to be lamented that the conduct of another class, equally criminal, and, if possible, more mischievous, has hitherto passed with impunity, and almost without notice. I mean that tribe who, taking advantage of the times, have carried the spirit of monopoly and extortion to an excess, which scarcely admits of a parallel. Emboldened by the success of progressive impositions, it has extended to all the necessaries of life. The exorbitant price of every article, and the depreciation upon our

currency, are evils derived essentially from this source. When avarice takes the lead in a State, it is commonly the forerunner of its fall. How shocking is it to discover among ourselves, even at this early period, the strongest symptoms of this fatal disease.

There are men in all countries, the business of whose lives it is to raise themselves above indigence by every little art in their power. When these men are observed to be influenced by the spirit I have mentioned, it is nothing more than might be expected, and can only excite contempt. When others, who have characters to support, and credit enough in the world to satisfy a moderate appetite for wealth, in an honorable way, are found to be actuated by the same spirit, our contempt is mixed with indignation. But when a man, appointed to be the guardian of the State, and the depositary of the happiness and morals of the people, forgetful of the solemn relation in which he stands, descends to the dishonest artifices of a mercantile projector, and sacrifices his conscience and his trust to pecuniary motives; there is no strain of abhorrence of which the human mind is capable, no punishment, the vengeance of the people can inflict, which may not be applied to him with justice.

If it should have happened, that a member of Congress has been this degenerate character, and has been known to turn the knowledge of secrets, to which his office gave him access, to the purposes of private profit, by employing emissaries to engross an article of immediate necessity to the public service, he ought to feel the utmost rigor of public resentment, and be detested as a traitor of the worst and most dangerous kind.

PUBLIUS.

THE HONORABLE ————, ESQ.

October 26, 1778.

SIR:

The honor of being a hero of a public panegyric, is what you could hardly have aspired to, either from your talents, or from

your good qualities. The partiality of your friends has never given you credit for more than mediocrity in the former; and experience has proved, that you are indebted for all your consequence to the reverse of the latter. Had you not struck out a new line of prostitution for yourself, you might still have remained unnoticed and contemptible—your name scarcely known beyond the little circle of your electors and clients, and recorded only in the journals of C——ss. But you have now forced yourself into view, in a light too singular and conspicuous to be overlooked, and have acquired an undisputed title to be immortalized in infamy. I admire the boldness of your genius, and confess you have exceeded expectation. Though from your first appearance in the world, you gave the happiest presages of your future life, and the plainest marks of your being unfettered by any of those nice scruples, from which men of principle find so much inconvenience; yet your disposition was not understood in its full extent. You were thought to possess a degree of discretion and natural timidity, which would restrain you from any hazardous extremes. You have the merit both of contradicting this opinion, and discovering, that notwithstanding our youth and inexperience as a nation, we begin to emulate the most veteran and accomplished states in the art of corruption. You have shown that America can already boast, at least one public character, as abandoned as any the history of past or present times can produce.

Were your associates in power of a congenial temper with yourself, you might hope, that your address and dexterity upon a late occasion, would give a new and advantageous impression of your abilities, and recommend you to employment in some important negotiation, which might afford you other opportunities of gratifying your favorite inclination, at the expense of the public.

It is unfortunate for the reputation of Governor Johnston, and for the benevolent purposes of his royal master, that he was not acquainted with the frailties of your character, before he made his experiment on men, whose integrity was above temptation. If he had known you, and had thought your services

worth purchasing, he might have played a sure game, and avoided the risk of exposing himself to contempt and ridicule. And you, sir, might have made your fortune at one decisive stroke.

It is matter of curious inquiry, what could have raised you, in the first instance, and supported you since in your present elevation. I never knew a single man, but was ready to do ample justice to your demerit. The most indulgent opinion of the qualifications of your head and heart, could not offend the modest delicacy of your ear, or give the smallest cause of exultation to your vanity. It is your lot to have the peculiar privilege of being universally despised. Excluded from all resource to your abilities or virtues, there is only one way in which I can account for the rank you hold in the political scale. There are seasons in every country, when noise and impudence pass current for worth; and in popular commotions especially, the clamors of interested and factious men are often mistaken for patriotism. You prudently took advantage of the commencement of the contest, to ingratiate yourself in the favor of the people, and gain an ascendant in their confidence by appearing a zealous assertor of their rights. No man will suspect you of the folly of public spirit—a heart notoriously selfish, exempts you from any charge of this nature—and obliges us to resolve the part you took, into opposite principles. A desire of popularity, and a rivalship with the ministry will best explain them. Their attempt to *confine* the sale of a lucrative article of commerce to the East India Company, must have been more unpardonable in the sight of a *monopolist*, than the most daring attack upon the public liberty. There is a vulgar maxim which has a pointed emphasis in your case, and has made many notable patriots in this dispute.

It sometimes happens that a temporary caprice of the people leads them to make choice of men, whom they neither love nor respect; and that they afterwards, from an indolent and mechanical habit, natural to the human mind, continue their confidence and support merely because they had once conferred them. I cannot persuade myself, that your influence rests upon

a better foundation, and I think the finishing touch you have given to the profligacy of your character, must rouse the recollection of the people, and force them to strip you of a dignity which sets so awkwardly upon you, and consign you to that disgrace which is due to a scandalous perversion of your trust. When you resolved to avail yourself of the extraordinary demand for the article of flour, which the wants of the French fleet must produce, and which your official situation early impressed on your attention—to form connections for monopolizing that article, and raising the price upon the public more than one hundred per cent.—when by your intrigues and studied delays, you protracted the determination of the C——tt—e of C——ss on the proposals made by Mr. W—sw—th, C—ss—y G——n——l for procuring the necessary supplies for the public use—to give your agents time to complete their purchases—I say when you were doing all this, and engaging in a traffic infamous in itself, repugnant to your station, and ruinous to your country; did you pause and allow yourself a moment's reflection on the consequences? Were you infatuated enough to imagine you would be able to conceal the part you were acting? Or had you conceived a thorough contempt of reputation and a total indifference to the opinion of the world? Enveloped in the promised gratifications of your avarice, you probably forgot to consult your understanding, and lost sight of every consideration that ought to have regulated the man, the citizen, the statesman.

I am aware, that you could never have done what you have, without first obtaining a noble victory over every sentiment of honor and generosity. You have therefore nothing to fear from the reproaches of your own mind. Your insensibility secures you from remorse. But there are arguments powerful enough to extort repentance, even from a temper as callous as yours. You are a man of the world, sir; your self-love forces you to respect its decisions, and your utmost credit with it, will not bear the test of your recent enormities, or screen you from the fate you deserve.

THE HONORABLE ————————, ESQ.

Nov. 16, 1778.

Sir:

It may appear strange, that you should be made a second time the principal figure of a piece intended for the public eye. But a character, insignificant in every other respect, may become interesting from the number and magnitude of its vices. In this view, you have a right to the first marks of distinction, and I regret that I feel any reluctance to render you the liberal tribute you deserve. But I reverence humanity, and would not wish to pour a blush upon the cheeks of its advocates. Were I inclined to make a satire upon the species, I would attempt a faithful description of your heart. It is hard to conceive, in theory, one of more finished depravity. There are some men, whose vices are blended with qualities that cast a lustre upon them, and force us to admire while we detest! Yours are pure and unmixed, without a single solitary excellence even to serve for contrast and variety.

The defects, however, of your private character, shall pass untouched. This is a field in which your personal enemies may expatiate with pleasure. I find it enough to consider you in a public capacity.

The station of a member of C . . . . . ss, is the most illustrious and important of any I am able to conceive. He is to be regarded not only as a legislator, but as a founder of an empire. A man of virtue and ability, dignified with so precious a trust, would rejoice that fortune had given him birth at a time, and placed him in circumstances, so favorable for promoting human happiness. He would esteem it not more the duty than the privilege and ornament of his office to do good to all mankind. From this commanding eminence he would look down with contempt upon every mean or interested pursuit.

To form useful alliances abroad—to establish a wise government at home—to improve the internal resources and finances of the nation—would be the generous objects of his care. He

would not allow his attention to be diverted from these to intrigue for personal connections, to confirm his own influence; nor would be able to reconcile it, either to the delicacy of his honor, or to the dignity of his pride, to confound in the same person the representative of the commonwealth, and the little member of a trading company. Anxious for the permanent power and prosperity of the State, he would labor to perpetuate the union and harmony of the several parts. He would not meanly court a temporary importance, by patronizing the narrow views of local interest, or by encouraging dissensions either among the people or in C . . . . . ss. In council, or debate, he would discover the candor of a statesman, zealous for truth; and the integrity of a patriot, studious of the public welfare; not the cavilling petulance of an attorney, contending for the triumph of an opinion, nor the perverse duplicity of a partisan, devoted to the service of a cabal. Despising the affectation of superior wisdom, he would prove the extent of his capacity by foreseeing evils, and contriving expedients to prevent or remedy them. He would not expose the weak sides of the States, to find an opportunity of displaying his own discernment, by magnifying the follies and mistakes of others. In his transactions with individuals, whether foreigners or countrymen, his conduct would be guided by the sincerity of a man, and the politeness of a gentleman; not by the temporizing flexibility of a courtier, nor the fawning complaisance of a sycophant.

You will not be at a loss, sir, in what part of this picture to look for your own resemblance; nor have I the least apprehension that you will mistake it on the affirmative side. The happy indifference with which you view those qualities most esteemed for their usefulness to society, will preserve you from the possibility of an illusion of this kind. Content with the humble merit of possessing qualities useful only to yourself, you will contemplate your own image on the opposite side, with all the satisfaction of conscious deformity.

It frequently happens that the excess of one selfish passion either defeats its own end, or counteracts another. This, if I am not mistaken, is your case. The love of money and the love of

power are the predominating ingredients of your mind; cunning, the characteristic of your understanding. This has hitherto carried you successfully through life, and has alone raised you to the exterior consideration you enjoy. The natural consequence of success is temerity. It has now proceeded one step too far, and precipitated you into measures from the consequence of which you will not easily extricate yourself. Your avarice will be fatal to your ambition. I have too good an opinion of the sense and spirit, to say nothing of the virtue of your countrymen, to believe they will permit you any longer to abuse their confidence, or trample upon their honor. Admirably fitted, in many respects, for the meridian of St. James, you might there make the worthy representative of a venal borough, but you ought not to be suffered to continue to sully the majesty of the people in an American C . . . . . ss.

It is a mark of comparison, to which you are not entitled, to advise you by a timely and voluntary retreat, to avoid the ignominy of a formal dismission. Your career has held out as long as you could have hoped. It is time you should cease to personate the fictitious character you have assumed, and appear what you really are. Lay aside the mask of patriotism, and assert your station among the honorable tribe of speculators and projectors. Cultivate a close alliance with your and your the accomplices and instruments of your guilt, and console yourself for the advantage you have lost, by indulging your genius without restraint in all the forms and varieties of fashionable peculation.

PUBLIUS.

MILITARY REMARKS AND QUERIES.

Submitted by Washington to Committee in Camp. Draft by Hamilton, Jan. 8, 1779.

The first and great object is to recruit the army.

1st. By enlisting all the men now in it during the war, who are engaged for any term short of that; for this purpose no bounty should be spared.

2dly. By drafting, upon some such plan as was recommended to the committee at Valley Forge, last February.

The next object is, to fix some ideas respecting the Northern preparations, concerning which, the Commander-in-Chief now finds himself in a dilemma; and respecting the operations of the next campaign in general, in order that measures may be taken systematically. The following questions, on which the foregoing will depend, ought to be considered and decided.

1st. If the enemy retain their present force at New-York and Rhode Island, can we assemble a sufficient force and means to expel them?

2dly. If we cannot, can we make a successful attempt against Niagara, and keep a sufficient force at the same time on the seaboard, to keep the enemy within bounds?

3dly. Are our finances equal to eventual preparations for both these objects?

If the first is determined in the affirmative, and the enemy keep possession, we ought to direct almost our whole force and exertions to that point, and for the security of our frontiers, endeavor to make some expedition against Detroit, and the Indian settlements, by way of diversion. Our preparations being for this object, the expedition against Niagara we ought to renounce.

If the first question is answered negatively, and the second

affirmatively, and if it is judged expedient to make such an attempt, our preparations ought to have reference principally thereto, and we must content ourselves with a merely defensive conduct elsewhere, and should study economy as much as possible. It is in vain to attempt things which are more the objects of desire than attainment. Every undertaking must be, at least ought to be, regulated by the state of our finances, the prospect of our supplies, and the probability of success. Without this, disappointment, disgrace, and an increase of debt, will ensue on our part, exultation and renewed hope on that of the enemy. To determine, therefore, what we can undertake; the state of the army, the prospect of recruiting it, paying, clothing, and feeding it, the providing the necessary apparatus for offensive operations; all these matters ought to be well and maturely considered. On them every thing must depend; and however reluctantly we yield, they will compel us to conform to them, or by attempting impossibilities we shall ruin our affairs.

If the third question is answered affirmatively, which it is much to be feared cannot be done; then eventual preparations ought to be made for both. We shall then be best able to act according to future circumstances; for, though it will be impossible to unite both objects in the execution; yet in the event of the enemy's leaving these States, we should be ready to strike an important blow for the effectual security of our frontiers, and for opening a door to a further progress into Canada.

From the investigation of these points another question may possibly result.

Will not the situation of our affairs, on account of the depreciated condition of our currency; deficiency of bread; scarcity of forage; the exhausted state of our resources in the middle department, and the general distress of the inhabitants; render it advisable for the main body of the army to lie quiet in some favorable position for confining, as much as possible, the enemy to their present posts (adopting at the same time the best means in our power to scourge the Indians, and prevent their depredations), in order to save expenses, avoid new emissions, recruit our finances, and give a proper tone to our money, for more vigorous measures hereafter?

In determining a plan of operations for next campaign, much will depend on the prospect of European affairs; what we have to expect from our friends, what they will expect from us; and what the enemy will probably be able to do. These points should be well weighed and every information concentred to throw light upon them. But upon the whole, it will be the safest and most prudent way to suppose the worst and prepare for it.

It is scarcely necessary to say, that the providing ample supplies of arms, clothes and ordnance stores is essential; and that an uncertain dependence on them may not only be hurtful, but ruinous. Their importance demands that every possible expedient should be without delay adopted towards obtaining these articles in due season, for the purposes of next campaign.

Heavy cannon for the posts in the Highlands, for battering, and for vessels, if offensive measures are to be pursued, must be immediately provided, and in considerable quantity. Large mortars, with a sufficient apparatus, will also be wanted.

The completing the arrangement of the army, without further delay, is a matter of great importance, whatever may be our plan. The want of this is the source of infinite dissatisfaction to the officers in general, and continual perplexity to the Commander-in-Chief. The want of Brigadiers is a material inconvenience, and hath been the cause of much relaxation of discipline, discontent and loss in several instances.

The Ordnance Department seems to require some important alterations. General Knox's representation, transmitted to Congress in July or August last, and his letter and memorial of the — ulto., copy of which is annexed, show that he finds himself under embarrassments of a disagreeable nature, from the present form of it.

The Clothing Department appears to be altogether unsettled, and confused, and requires immediate attention, for the pur-

poses both of regular issues to the army, and of saving to the public. There are too many persons concerned in that business, and acting independent of each other, to have it well conducted. The army is now greatly deficient in the articles of blankets and hats, and shoes, or soon will be, as these last are in constant demand. They might, I should conceive, be contracted for by means of the hides, and in great abundance.

The Hospital is in some respects, in my judgment, upon an improper establishment, and might be altered for the better. I mean that part of it which appoints Subdirectors, Surgeons, etc., for different districts, which necessarily must be attended with one or other of these disadvantages: either that a competent number must be appointed in each district, to serve the purposes of the whole army, in case the theatre of war should happen to be there; which must be a great unnecessary burthen to the public; or these gentlemen must be occasionally removed from one district to another, which is productive of an interference of authority, and jealousies and disputes very injurious to the service. It appears to me, that there is no occasion for allotting those departments which are under one general director into districts. 'Tis true, that wherever there are troops, there must be surgeons and Hospital stores; but these can be sent by the Director General, as exigencies may require, and proportioned to the particular exigency; whereas, by being made stationary, they become inadequate to the duty in one case, and sinecures in the other.

From the beginning of the war, there has been a constant disagreement between the Hospital and Regimental Surgeons in which, more than probably, both have been wrong. But I cannot help thinking, if a little more latitude were granted to the Regimental Surgeons, under the inspection of the Director General, or rather Surgeon General of the flying hospital, that great good would result from it. As far as I can judge, much expense has been incurred, many lives have been lost, and many desertions occasioned, by removing men from camp, which the means of taking care of them in their regiments, might have

prevented. It often happens, that the seeds of dangerous disorders are sown, by removing the sick at improper times, and in unfavorable weather, which might be avoided by keeping them in camp, if they could have the necessary assistance there; but which, under the present arrangement, is unavoidable.

The immediate establishment of the Inspectorship on some definite plan, that the benefits of it may be fully derived towards the next campaign, is a matter of the utmost importance.

It is also very interesting that the Engineering Department should be arranged upon some fixed and explicit footing.

The situation of the officers of the army in the present depreciated state of the paper currency, and the consequent high prices of every necessary, is so singularly hard, that the bare mention of their case is sufficient to bring it home to the attention and feeling of every man of reflection, and will leave no doubt of the necessity of applying a remedy, the most speedy and effectual.

GEO. WASHINGTON.

INSPECTOR GENERAL.

Report of Committee of Conference with the Commander-in-Chief, being the Plan for the Department of the Inspectorship. Agreed to in Committee, January 28, 1779. Passed February 18, 1779. Draft by Hamilton.

In Congress, Feb. 18, 1779.

The Committee appointed to confer with the Commander-in-Chief, to whom was committed a Report from the Board of War on the Department of Inspector General, having in conference with the Commander-in-Chief agreed on the foregoing Plan, beg leave to submit the same to Congress, viz.:

Plan for the Department of Inspector General.

Resolved. That there shall be an Inspector General to the armies of the United States, with the rank of Major General, who in all future appointments shall be taken from the line of Major Generals.

That the duty of the Inspector General shall principally consist in forming a system of regulations for the exercises of the troops in the manual, evolutions, and manœuvres; for the service of guards and detachments, and for camp and garrison duty.

That the Inspector General and his assistants shall review the troops at such times and places, and receive such returns for that purpose, as the Commander-in-Chief, or Commanding General, shall direct. At which reviews he or they shall inspect the number and condition of the men, their discipline and exercise, and the state of their arms, accoutrements, and clothes, observing what of these articles have been lost or spoiled since the last review, and as near as possible by what means, reporting the same, with the deficiencies and neglects, to the Commander-in-Chief, or the commanding officer of a detachment, and to the Board of War.

That all new manœuvres shall be introduced by the Inspector General, and all old ones performed according to the established principles under his superintendency. But he shall not introduce or practise any regulations relative to the objects of his department, save such as are made and established in manner following.

All regulations whatsoever to be finally approved and established by Congress. But the exigence of the service requiring it, a temporary one may from time to time be introduced by the Inspector General, with the approbation of the Commander-in-Chief. These regulations to be communicated to the army through the Adjutant General, and to be transmitted to the Board of War with all convenient dispatch, that being examined and reported by them to Congress, they may be rejected, altered, amended, or confirmed, as Congress shall deem proper.

[That in the main army, or in any detachment, when circum-

stances require it, there shall be an Assistant Inspector General, taken from the line of Colonels or Lieutenant Colonels commandant, and to continue in the office so long only as the particular exigence for which he was appointed shall render it necessary.*]

That there be as many Subinspectors as the Commander-in-Chief, or commanding officer in a detachment, shall, on consideration of the strength and situation of the army, from time to time deem necessary, to be taken from the line of Lieutenant Colonels, and to receive their instructions relative to the department from the Inspector General.

That there be one Brigade Inspector to each Brigade, who shall be one of the Majors in the Brigade, and that the office of Brigade Inspector shall in future be annexed to that of Major of Brigade. He shall accordingly keep a roster of the battalions of his brigade; regulate the details, and take care of the formation and march of all guards, detachments, &c., from the brigade.

He is to receive the general orders, and communicate them to the commanding officers of the brigade and regiments, and through the adjutants to all the officers of the brigade. He is, so far as concerns his brigade, to inspect the police of the camp, the discipline, and order of the service. In time of action, he is to assist in executing the necessary manœuvres of the brigade, according to the orders of the brigadier, or officer commanding. He is to do no duty in the line.

[That each brigadier be allowed an aid-de-camp for the dispatch of his orders. That he be taken from the line under the rank of captain, and hold the same rank as in the line, preserving his right of promotion as usual. This regulation not to be extended so as to injure the present brigade majors, who may act as aid-de-camps to their respective brigadiers with their present rank, pay, and rations, and with every other privilege as heretofore.]†

That all the officers of the inspectorship, having appoint-

* The General upon the whole thinks this part respecting an Assistant Inspector General may as well be omitted, as a subinspector may answer the same purpose.

† This article, as it is not properly connected with the inspectorship, had better form a separate resolution.

ments in the line, shall retain their rights of command, succession, and promotion, in the same manner as if they had not assumed the office. But as the duties of this department are sufficient to employ their whole time, they are to suspend the exercise of their respective commands, except on particular occasions, when the Commander-in-Chief, or commanding officer in a separate detachment, may deem it necessary to invest them with command.

They are to be exempted from all common, camp, and garrison duty, that they may attend the more carefully to those of the inspection; and in time of action they are to be employed in assisting in the execution of the field manœuvres.

(Clause as to pay stricken out. Pay fixed by resolution of Congress, of May 5, 1778.)

That the Inspector General, so far as relates to the inspection of the army, be subject to the order of Congress, the Board of War, and the Commander-in-Chief only, but the Subinspectors shall also be subject to the officers commanding the divisions and brigades to which they are attached on the principles herein established.

MISSION TO FRANCE.

Instructions by Washington to Laurens. Draft by Hamilton.

"In compliance with your request, I shall commit to writing the result of our conferences on the present state of American affairs; in which I have given you my opinion with that freedom and explicitness, which the objects of your commission, my entire confidence in you, and the exigency of our affairs demand.

"1st. To me it appears evident, that, considering the diffused population of these States, the consequent difficulty of drawing together their resources, the composition and temper of a part

of their inhabitants, the want of a sufficient stock of national wealth, as a basis for revenue, and the almost total extinction of commerce, the efforts that we have been compelled to make for carrying on the war, have exceeded the natural abilities of this country, and, by degrees, brought us to a crisis that makes the most efficacious and immediate succor from abroad indispensable to our safety.

"2d. That notwithstanding, from the confusion inseparable from the revolution; from our having had governments to frame, and every species of civil and military institution to create; from that inexperience in affairs necessarily incident to a nation in its commencement, some errors may have been committed in the administration of our finances, to which a part of our embarrassments are to be attributed; yet they are principally to be ascribed to an essential defect of means, to the want of a sufficient stock of wealth, as mentioned in the first article, which continuing to operate, will make it impossible, by any merely interior exertions, to extricate ourselves from those embarrassments, restore public credit, and furnish the funds requisite for carrying on the war.

"3d. That experience has demonstrated it to be impossible long to support a paper credit without funds for its redemption; that the depreciation of our currency was in the main a necessary effect of the want of those funds; and that its restoration is impossible for the same reason, to which the general diffidence that has taken place among the people is an additional, and, in the present state of things, an insuperable obstacle.

"4th. That the mode which for want of money has been substituted for supplying the army, by assessing a portion of the productions of the earth, has hitherto been found to be ineffectual; has frequently left the army to experience the most calamitous distress, and from its novelty and incompatibility with ancient habits is regarded by the people as burthensome and oppressive; has excited serious discontents, and in some States there appear alarming symptoms of opposition. That this mode has, besides, many particular inconveniences, which contribute to make it inadequate to our exigencies, and ineligible but as an auxiliary.

"5th. That the resource of domestic loans is inconsiderable; because there are, properly speaking, few moneyed men in this country, and the few there are, can employ their money to more advantage otherwise; besides which, the instability of our currency, and the want of funds, have impaired the public credit. That from the best estimates of the annual expense of the war, and the annual revenues which these States are capable of producing, there is a large balance to be made up by public credit.

"6th. That the patience of the army, from an almost uninterrupted series of complicated distresses, is now nearly exhausted; their discontents are matured to an extremity which has recently had the most disagreeable consequences, and demonstrates the absolute necessity of speedy relief. You are too well acquainted with all their sufferings, for want of clothing, for want of subsistence, for want of pay.

"7th. That the people begin to be dissatisfied with the present system for the support of the war; and there is cause to apprehend that evils actually felt in the prosecution of it, may weaken those sentiments which began it, founded, not on immediate sufferings, but on a speculative apprehension of evils to arise in future from the deprivation of our liberties. There is danger that a commercial and free people, little accustomed to heavy burdens, pressed by impositions of a new and odious kind, may not make a proper allowance for the necessity of the conjuncture, and may imagine they have only exchanged one tyranny for another.

"8th. That from all the foregoing considerations results, first, the absolute necessity of an immediate, ample, and efficacious succor of money, considerable enough to be a foundation for permanent arrangements of finance; to restore the public credit, and give new life and activity to our future operations. Secondly, the vast importance of a decided effort of the allied arms upon this country the ensuing campaign, to give a fatal blow to the power of the enemy, and secure the great objects of the war,—the liberty and independence of these States. Without the first, we may make a feeble and expiring effort the next

campaign, which would, in all probability, be the period of our opposition. With it, we should be in a condition to continue the war as long as the obstinacy of the enemy might require. The first is essential to the last: both combined, would at once bring the contest to a glorious issue; put the objects of the alliance out of the reach of contingencies; crown the obligations which America already feels to the magnanimity and generosity of her allies, and perpetuate the union by those ties of gratitude and affection, as well as mutual advantage, which alone can render it solid and indissoluble.

"9th. That next to a loan of money, a constant naval superiority on these coasts, is the object which most interests us. This would instantly reduce the enemy to a difficult defensive, and by depriving them of all prospect of extending their acquisitions, would take away the motives for prosecuting the war. Indeed, it is not easy to conceive, how they could subsist a large force in this country, if we had the command of the seas to interrupt the regular transmission of supplies from Europe. This superiority (with an aid of money) would enable us to convert the operations of the war into a vigorous offensive. I say nothing of the advantages to our trade, nor how infinitely it would facilitate our supplies. In short, it seems to be a deciding point. It appears, too, to be the interest of our allies, abstracted from the immediate benefits to this country, to transfer the whole naval war to America. The number of ports friendly to them and hostile to the British; the materials this country affords for repairing the disabled ships; the large quantities of provisions towards the subsistence of the fleet; are circumstances which would give a palpable advantage to our allies in a naval contest in these seas.

"That notwithstanding the embarrassments under which we labor, and the inquietudes prevailing among the people, there is still a fund of inclination and resources in this country, equal to great and continued exertions; provided we have it in our power to stop the progress of disgust, by changing the present system, by restoring public credit, and by giving activity to our measures; of all which, a powerful succor of money might be the

basis. The people are dissatisfied; but it is with the feeble and oppressive mode of conducting the war, not with the war itself. They are not unwilling to contribute to its support, but they are unwilling to do it in a way that renders private property precarious,—a necessary consequence of the fluctuation of the national currency, and of the inability of government to perform its engagements coercively made. A large majority are still firmly attached to its independence; abhor a re-union with Great Britain; and are affectionate to the Alliance with France: but this disposition cannot supply the place of the means essential in war, nor can we rely on its continuance amid the perplexities, oppressions, and misfortunes that attend the want of them.

"That no nation will have it more in its power to repay what it may borrow than this. Our debts are small; the immense tracts of unlocated lands; the variety and fertility of soils; the advantages of every kind which we possess for commerce, insure to this country a rapid progress in population and prosperity, and a certainty, its independence being established, of reducing, in a short term of years, the comparatively inconsiderable debts we may have occasion to contract.

"If the foregoing observations will be of any use to you, I shall be happy. I wish you a safe and pleasant voyage, the full accomplishment of your mission, and a speedy return;—being, with sentiments of perfect friendship, regard, and affection, dear sir,

"Your obedient servant,

"G. W."*

* It will be observed, by a comparison of this document with that inserted in the diplomatic correspondence, that there is a difference in the disposition of the parts of these instructions, and that the copy given to Laurens was fuller. The difference is not, however, important. The above is copied from the first draft, in Hamilton's autograph, with the exception of the four closing lines, which are added in the handwriting of Washington.

MILITARY REGULATIONS.

Draft by Hamilton. Submitted to Washington.

There are still existing in the army so many abuses absolutely contrary to the military constitution, that, without a speedy stop is put to them, it will be impossible even to establish any order or discipline among the troops.

I would, therefore, propose the following Regulations, submitting to his Excellency the Commander-in-Chief, to distinguish such as may be published under his own authority in General Orders, and such as will require the sanction and authority of the committee of Congress now in camp.

1stly.—Every officer or soldier who acts contrary to the Regulations for the order and discipline of the army, established by Congress, shall be tried and punished for disobedience of orders.

2dly.—Every officer who absents himself from his regiment without leave, shall be tried and punished. If he remain absent three weeks, he shall be ordered to join by a notification in General Orders, and in the public newspapers. And in case of his absence three weeks afterward, such notification shall be repeated. And should he not return in three weeks from the last notification, he shall, by the sentence of a court martial, be cashiered and rendered incapable of ever holding a commission in the armies of the United States.

3dly.—Every officer on furlough, who remains absent ten days longer than the time allowed him, shall be tried by a court martial. And in case of his being, by sickness or any other cause, detained from his regiment six days above the time allowed in his furlough, he shall inform the commanding officer of his regiment of the reasons that prevent his returning. In default of such information, he shall be notified, tried, and punished, agreeably to the second article.

4thly.—It being permitted, for the care and convenience of the Generals, and other officers of the army, to take servants from the regiments, many abuses have resulted therefrom. To remedy which, the following Regulations are to take place for the future:

Each Major-General is permitted to take from the division which he commands, four men. Each Brigadier-General, three men. Each Colonel, or Lieutenant-Colonel-Commandant, two men. Each Lieutenant-Colonel, or Major, one man, and a second man, who is to be exempted from ordinary duty, but to turn out in time of action. Each Captain, two men, to be exempted from ordinary duty only. Each Subaltern, one man, who is to mount guard with the officer he serves. Those Generals, and other officers, who are not attached to any particular division or brigade, to take their servants from the line.

No officer in a civil department, shall be permitted to take a soldier from any regiment to serve him; nor is any Colonel, or commanding officer, to suffer a soldier of their regiment to be detained by any such officer.

Those who may be permitted to have servants from the line, are to apply to the Quarter-Master-General, who will take them from the regiments, and distribute them to whom he thinks proper.

5thly.—Great quantities of arms and ammunition have been destroyed, by being in the possession of men who do not use them in time of action. To prevent this, for the future, no arms, accoutrements, or ammunition, are to be delivered to those under the following description, viz.: general and staff officers, waiters, wagoners, camp color men, and all those who do not bear arms in time of action. Such of those as have arms, are immediately to deliver them to their Captains, who will deliver them to the Conductor, that they may be returned to the Field Commissary.

6thly.—Abolition of standing guards, though of great consequence to the order and discipline of the army, has not yet taken place. The soldiers on these guards, being separated from their regiments, are often employed as servants. They become ignorant of the service, and lose and destroy their arms and clothing.

Therefore, for the future, no standing guard shall be permitted to any general, or other officer, on any pretence whatever.

Those guards which cannot be relieved every twenty-four hours, must be relieved at least every three days; for which the Inspectors and Majors of Brigade are to be answerable. All guards or pickets, for more than three days, shall be called detachments.

7thly.—The multiplicity of small guards, for the stores and baggage of the army, being unnecessary, and diminishing the strength of the regiments, it will be necessary to repeat the order given at Smith's Clove, the 25th of June last, relative to this object. It should therefore be ordered, that

The order given at Smith's Clove the 25th of June last, relative to the guard usually furnished for the Quarter-Master's, and other stores, is to be carried into execution with the greatest rigor, and is to be regarded as a standing order.

8thly.—It being very improper and hurtful to the service, that guards should be sent too far from the corps to which they belong, it is ordered,

That the general officers shall have their guard from the divisions and brigades to which they belong; and those who have no division or brigade, shall be furnished with a guard from the line, by detail from the Adjutant General.

No General shall take his guard above ten miles from camp, without the express leave of the Commander-in-Chief.

9thly.—Nothing being more disgraceful to the service, nor dangerous for the army, than for the advanced posts to be surprised by the enemy, it is necessary that every possible precaution should be taken to prevent an accident so dishonorable to the officer who commands at such a post. And as the instruction given in the chapter on the service of the guard, in the Regulations, is not full and explicit, it is thought necessary to add the following article:

As soon as an officer, commanding a detachment, arrives at the post he is to occupy, he must endeavor to procure some inhabitant on whom he can depend, to show him all the roads, footpaths, and other avenues leading to the post. These he must

himself reconnoitre, and then determine the number of guards necessary for his security, as well in front, as on the flanks and in the rear of the post. He must then divide his detachment into three parts, one of which must be always on guard; another, act as reserve picket; and the third, be off duty.

The part destined for guard, must be divided into as many guards as the officer may think necessary; always observing, that the guards are so proportioned as that one-third of each guard may always be on sentry at the same time.

These guards should be posted at three or four hundred paces from the main post, and the sentinels form a chain round it. They must be within sight of each other during the day, and within call during the night.

The commanding officer having himself posted these guards and sentinels, and well instructed the officers and sergeants in their duty, will fix the place where he means to defend himself in case of an attack; as a house, a height, or behind some bridge or fence, which he will strengthen as much as possible by an abatis, ditch, or any thing his genius may direct him for that purpose.

The reserve pickets are on no account to stir from the main post, or take off their accoutrements; but must be ready to parade under arms at any moment of the day or night; though, during the day, they may be permitted to lay down and sleep. Every man must have his haversack under his head; and if the post is dangerous, his arms in his hand.

The Reserve will furnish a guard of a sergeant and from six to twelve men, to furnish from two to four sentinels round the house, or wherever they are posted, to give notice of all that approach, or of any alarm. One of these sentries must always be before the arms.

That part of the detachment off duty, may undress and repose themselves. They must cook for the guard and picket, and fetch the wood and water necessary for the post; but they must not do this before the roll-call in the morning, when the commanding officer receives the reports of all the guard. If the post is near the enemy, this part of the detachment must not undress during the night.

As the guard form a chain of sentinels round the post, no soldier must pass the chain without a non-commissioned officer; nor any stranger be permitted to enter, without being conducted to, and examined by, the commanding officer.

After roll-call in the evening, no soldier must be permitted to go more than forty paces from the place of arms. The officers, it is expected, always remain with their men.

As soon as a sentry perceives the enemy, he must fire his piece to alarm the other guards and the main body. The guards immediately parade, and follow the rules prescribed in the Regulations. The picket parades immediately, and the other part joins it as fast as it can get ready. The commanding officer will immediately detach one-third of the picket, with orders to march toward the guard attacked, and lay in ambuscade behind some house, barn, or in a wood on the road leading from them to the main post. And when the guard attacked retreat, and are followed by the enemy, they must fall in the rear of the enemy, and keep up a scattered fire. This manœuvre, especially in the night, will not fail to disconcert the enemy, and cause a failure of their enterprise.

The guard are, in every respect, to observe the rules laid down in the Regulations.

The part on guard is to be relieved by the part off duty, and the guard take the reserve picket.

No part of the service is more important, nor more neglected than this of the guard, notwithstanding the duties are so particularly described in the Regulations.

It is very seldom a guard turn out for a General officer of the day; and even when they turn out, they are seldom or ever drawn up in the order prescribed. Therefore, for the future, the Generals, and Field officers of the day, are ordered to pay the greatest attention, that the service of the guard is performed strictly conformable to the Regulations. For which purpose, they must visit the guards of sentinels at different hours, and arrest or confine any officer, or non-commissioned officer, whose guard is not already paraded in order at his arrival. A guard which is surprised by an officer of the day, may, with the

same facility, be surprised by the enemy. If the sentinel before the guard-house is not sufficient, others must be added, who can see around the environs of the post, and give notice of all that approach.

For the more effectual preservation of the arms, accoutrements, and ammunition, each regiment shall be charged with the arms, &c., now in their possession, agreeably to the returns made at the last inspection. And for the future, none of those articles shall be drawn from the Field Commissary, but by returns signed by the Inspector of the Division, or, in his absence, by the Major of Brigade, doing his duty. And the Inspector and Major of Brigade, are to pay the strictest attention, that the Regulations, with respect to this object, are strictly carried into execution, examining and comparing the Regimental Returns with those of the Conductors.

In the Returns of the army, a great number of men are reckoned, who have been sick, or otherwise absent, a long time, without any account of them having been sent to their regiments.

Orders must be given to the officers superintending the hospitals, to send their Returns regularly every month; and the Majors of Brigade must take an extract of those of their Brigades returned in the several hospitals, to compare with the Returns of the inspection.

For those men who are sick in the country at private houses, certificates must be produced every two months, signed by a justice of the peace; and without such certificates, the men must be no longer returned, though the regiment may keep an account of them, that they be reclaimed if ever found.

The army, even at this day, is much reduced by a considerable number of men being permitted to retire on furlough and extra service. I would therefore recommend the following Regulations:

That from the first of May till the campaign closes, no officer have leave of absence for more than eight days, unless by permission from the Commander-in-Chief, or officer commanding at a separate post; and that no non-commissioned officer, nor soldier, be furloughed during the aforesaid period, unless by his Major-

General, or officer commanding at a separate post: and that, for only six days, and on the most special account. That during the army's continuance in winter quarters, not more than six men of a hundred be absent on furlough at the same time; these to have leave of absence from the officers commanding the regiments to which they belong.

That every officer, non-commissioned officer, and soldier, now on furlough, or on the recruiting service, be ordered to join their respective corps, by the first of June; the commanding officers of regiments to be answerable that they be notified of this order.

Notwithstanding the General Order lately issued, respecting men on extra service, many are still improperly absent. It is therefore ordered, that they join by the first of June, the commanding officers of the regiments to which they respectively belong, to be answerable that they be notified of this order. That for the future, none be suffered to go on such employ, except by order of the Commander-in-Chief, officers commanding at a separate post, or the Quarter-Master General.

The Marechaussêe Corps, though raised at a great expense, has been found not to answer the purpose for which it was raised; and as, by its composition, it is not fit to be employed on the lines, in order that they may not be useless to the army, I would propose the following

Arrangement for the Marechaussêe.

That the name they at present bear, be changed into that of General Staff Dragoons; and that they be employed in the following manner:

To furnish a guard for the Commander-in-Chief, of such a number as he shall please to order.

To furnish Orderly dragoons to Major Generals and Brigadiers; when their divisions and brigades are separated from the army, or when the Commander-in-Chief shall think them necessary. To furnish, also, Orderly dragoons to the Quarter-Master General, and Inspector General of the Army, and commanding officers of separate departments.

The Inspector who has the department of the Cavalry, to have the direction of this corps; to furnish the guards and Orderly

dragoons, agreeably to the orders he may receive from the Commander-in-Chief, without whose orders no dragoons shall be detached from the troop.

To prevent the abuses which have arisen, with respect to Orderly dragoons, the following Order should be rigorously observed:

No Orderly dragoons to be employed on any but military duty, nor sent express more than twenty miles; their duty being only to carry the orders of the General in writing, whenever they may be ordered: nor are they to follow the Aids, or any other officer, but the General to whom they are Orderly; who will himself consult the preservation of the horses as much as possible, by employing them only in cases of necessity.

No person whatever is to ride the dragoon horses but the dragoons themselves: and any dragoon is to inform the Inspector of any breach of this order; and the Inspector will immediately inform the Inspector General thereof; that the person who made use of the horse, may be punished. And in case any dragoon neglects to inform the Inspector as aforesaid, he shall receive one hundred lashes for such neglect.

DISCIPLINE.

Submitted by Washington to Congress. Draft by Hamilton.

HEAD QUARTERS, New Windsor, Feb. 3, 1781.

I have, on different occasions, done myself the honor, to represent to Congress the inconveniences arising from the want of a proper gradation of punishment in our military code; but as no determination has been communicated to me, I conclude, a multiplicity of business may have diverted their attention from the object. As I am convinced, a great part of the vices of our discipline springs from this source, I take the liberty again to

renew the subject. The highest corporal punishment we are allowed to give, is a hundred lashes; between that and death there are no degrees. Instances daily occurring of offences for which the former is entirely inadequate, Courts Martial, to preserve some proportion between the crime and the punishment, are obliged to pronounce sentence of death. Capital sentences, on this account, become more frequent in our service than in any other; so frequent, as to render their execution, in most cases, inexpedient; and it happens from this that greater offences often escape punishment, while lesser are commonly punished, which cannot but operate as an encouragement to the commission of the former.

The inconveniences of this defect are obvious. Congress are sensible of the necessity of punishment in an army, of the justice and policy of a due proportion between the crime and the penalty; and, of course, of the necessity of proper degrees of the latter. I shall therefore content myself with observing, that it appears to me indispensable there should be an extension of the present corporal punishment, and also that it would be useful to authorize courts martial to sentence delinquents to labor on the public works; perhaps even for some crimes, particularly desertion, to transfer them from the land to the sea service, where they have less opportunity to indulge their inconstancy. A variety in punishments is of utility as well as a proportion.

The number of lashes, may either be indefinite, left to the discretion of the Court to fix a limited to a larger number; in this case I would recommend five hundred. There is one evil, however, which I shall particularize, resulting from the imperfection of our regulation in this respect. It is the increase of arbitrary punishments. Officers finding discipline cannot be maintained by a regular course of proceeding, are tempted to use their own discretion which sometimes occasions excesses, to correct which, the interests of discipline will not permit much rigor. Prompt, and therefore arbitrary punishments are not to be avoided in an army, but the necessity for them will be more or less, in proportion as the military laws have more or less vigor.

There is another thing in our articles of war, which I beg leave to suggest to Congress, the propriety of altering. It is the 2d article of the 4th section; allowing commanding officers of corps to furlough their soldiers. This privilege, if suffered to operate, would often deprive the army of more men than it could spare. It has been attended with abuses; it is disagreeable for a general officer to restrain the exercise of a privilege granted by authority of Congress.

To prevent uneasiness and discussion, it were to be wished, Congress would think proper to repeal this article, and vest the power of designating the mode of granting furloughs in the Commander-in-Chief, or commanding officer of a separate army. It would perhaps be useful to prescribe a printed form, for which purpose I have taken the liberty to inclose one. This would hinder counterfeits and impositions. On the same principle I inclose the form of a discharge. It would, in my opinion, be a good regulation, that a soldier returning home, either on furlough or discharged, who did not, in ten days after his return, produce to the nearest magistrate his printed certificate, should be apprehended by the magistrate as a deserter, and through the Governor, reported to the General Officer commanding, in the State or department. This regulation, published in the army and in the several States, would have a tendency to discourage desertion. Something of this kind has been lately adopted in Virginia, and I doubt not, will have a good effect. It were to be wished its utility could become general.

THE CONTINENTALIST.

FISHKILL, NEW-YORK PACKET, July 12, 1781.

MR. LOUDON:

I send you the first number of a series of papers, which I intend to publish, on matters of the greatest importance to these States. I hope they will be read with as much candor and at-

tention as the object of them deserve; and that no conclusions will be drawn till these are fully developed.

I am, Sir,

Your most ob't humble servant,

A. B.

NO. I.

It would be the extreme of vanity in us not to be sensible, that we began this revolution with very vague and confined notions of the practical business of government. To the greater part of us it was a novelty; of those who under the former constitution had had opportunities of acquiring experience, a large proportion adhered to the opposite side, and the remainder can only be supposed to have possessed ideas adapted to the narrow colonial sphere, in which they had been accustomed to move, not of that enlarged kind suited to the government of an independent nation.

There were, no doubt, exceptions to these observations; men in all respects qualified for conducting the public affairs with skill and advantage; but their number was small—they were not always brought forward in our councils; and when they were, their influence was too commonly borne down by the prevailing torrent of ignorance and prejudice.

On a retrospect, however, of our transactions, under the disadvantages with which we commenced, it is perhaps more to be wondered at, that we have done so well, than that we have not done better. There are, indeed, some traits in our conduct, as conspicuous for sound policy, as others for magnanimity. But, on the other hand, it must also be confessed, there have been many false steps, many chimerical projects and utopian speculations, in the management of our civil as well as of our military affairs. A part of these were the natural effects of the spirit of the times, dictated by our situation. An extreme jealousy of power is the attendant on all popular revolutions, and has seldom been without its evils. It is to this source we are to trace many of the fatal mistakes, which have so deeply endangered

the common cause; particularly that defect which will be the object of these remarks—A want of power in Congress.

The present Congress, respectable for abilities and integrity, by experience convinced of the necessity of change, are preparing several important articles, to be submitted to the respective States, for augmenting the powers of the Confederation. But though there is hardly at this time a man of information in America, who will not acknowledge, as a general proposition, that in its present form, it is unequal, either to a vigorous prosecution of the war, or to the preservation of the union in peace; yet when the principle comes to be applied to practice, there seems not to be the same agreement in the modes of remedying the defect; and it is to be feared, from a disposition which appeared in some of the States, on a late occasion, that the salutary intentions of Congress may meet with more delay and opposition, than the critical posture of the States will justify.

It will be attempted to show, in a course of papers, what ought to be done, and the mischiefs of a contrary policy.

In the first stages of the controversy, it was excusable to err. Good intentions, rather than great skill, were to have been expected from us. But we have now had sufficient time for reflection, and experience as ample as unfortunate, to rectify our errors. To persist in them becomes disgraceful, and even criminal, and belies that character of good sense, and a quick discernment of our interests, which, in spite of our mistakes, we have been hitherto allowed. It will prove, that our sagacity is limited to interests of inferior moment; and that we are incapable of those enlightened and liberal views, necessary to make us a great and a flourishing people.

History is full of examples, where in contests for liberty, a jealousy of power has either defeated the attempts to recover or preserve it, in the first instance, or has afterwards subverted it by clogging government with too great precautions for its felicity, or by leaving too wide a door for sedition and popular licentiousness. In a government framed for durable liberty, not less regard must be paid to giving the magistrate a proper

degree of authority, to make and execute the laws with rigor, than to guard against encroachments upon the rights of the community. As too much power leads to despotism, too little leads to anarchy, and both, eventually, to the ruin of the people. These are maxims well known, but never sufficiently attended to, in adjusting the frames of governments. Some momentary interest or passion is sure to give a wrong bias, and pervert the most favorable opportunities.

No friend to order or to rational liberty, can read without pain and disgust, the history of the Commonwealths of Greece. Generally speaking, they were a constant scene of the alternate tyranny of one part of the people over the other, or of a few usurping demagogues over the whole. Most of them had been originally governed by kings, whose despotism (the natural disease of monarchy) had obliged their subjects to murder, expel, depose, or reduce them to a nominal existence, and institute popular governments. In these governments, that of Sparta excepted, the jealousy of power hindered the people from trusting out of their own hands a competent authority, to maintain the repose and stability of the Commonwealth; whence originated the frequent revolutions and civil broils, with which they were distracted. This, and the want of a solid federal union to restrain the ambition and rivalship of the different cities, after a rapid succession of bloody wars, ended in their total loss of liberty, and subjugation to foreign powers.

In comparison of our governments with those of the ancient republics, we must, without hesitation, give the preference to our own; because every power with us is exercised by representation, not in tumultuary assemblies of the collective body of the people, where the art or impudence of the *Orator* or *Tribune*, rather than the utility or justice of the measure could seldom fail to govern. Yet, whatever may be the advantage on our side, in such a comparison, men who estimate the value of institutions, not from prejudices of the moment, but from experience and reason, must be persuaded, that the same *jealousy* of *power* has prevented our reaping all the advantages, from the examples of other nations, which we ought to have done, and

has rendered our Constitutions in many respects, feeble and imperfect.

Perhaps the evil is not very great in respect to our State Constitutions; for, notwithstanding their imperfections, they may, for some time, be made to operate in such a manner, as to answer the purposes of the common defence, and the maintenance of order; and they seem to have, in themselves, and in the progress of society, among us the seeds of improvement.

But this is not the case with respect to the Federal Government; if it is too weak at first, it will continually grow weaker. The ambition and local interests of the respective members, will be constantly undermining and usurping upon its prerogatives, till it comes to a dissolution; if a partial combination of some of the more powerful ones does not bring it to a more *speedy* and *violent end.*

NO. IV.

August 30, 1781.

The preceding numbers are chiefly intended to confirm an opinion, already pretty generally received, that it is necessary to augment the powers of the confederation. The principal difficulty yet remains to fix the public judgment definitively on the points which ought to compose that augmentation.

It may be pronounced with confidence that nothing short of the following articles can suffice.

1st.—THE POWER OF REGULATING TRADE, comprehending a right of granting bounties and premiums by way of encouragement, of imposing duties of every kind as well for revenue as regulation, of appointing all officers of the customs, and of laying embargoes in extraordinary emergencies.

2d.—A moderate-levied tax, throughout the United States, of a specific rate per pound or per acre,* granted to the Federal

* Two pence an acre on cultivated, and a half-penny on uncultivated land, would answer the purpose, and would be so moderate as not to be felt—a small tax

Government in perpetuity; and, if Congress think proper, to be levied by their own collectors.

3d.—A moderate capitation-tax* on every male inhabitant above fifteen years of age, exclusive of common soldiers, common seamen, day laborers, cottagers, and paupers, to be also vested in perpetuity, and with the same condition of collection.

4th.—The disposal of all unlocated land for the benefit of the United States (so far as respects the profits of the first sale and the quit-rents), the jurisdiction remaining to the respective States in whose limits they are contained.

5th.—A certain proportion of the product of all mines discovered, or to be discovered, for the same duration, and with the same right of collection as in the second and third articles.

6th.—The appointment of all land (as well as naval) officers of every rank.

The three first articles are of IMMEDIATE NECESSITY; the three last would be of great present, but of much greater future utility; the whole combined would give solidity and permanency to the Union.

The great defect of the confederation is, that it gives the United States no property; or, in other words, no revenue, nor the means of acquiring it, inherent in themselves and independent on the temporary pleasure of the different members. And power without revenue, in political society, is a name. While Congress continue altogether dependent on the occasional grants of the several States, for the means of defraying the expenses of the Federal Government, it can neither have dignity, vigor, nor credit. Credit supposes specific and permanent funds for the punctual payment of interest, with a moral certainty of the final redemption of the principal.

In our situation, it will probably require more, on account of the general diffidence which has been excited by the past disorders in our finances. It will perhaps be necessary, in the first

on uncultivated land would have the good effect of obliging the proprietor either to cultivate it himself, or to dispose of it to some persons that would do it.

* Suppose a dollar, or even half a dollar per head.

instance, to appropriate funds for the redemption of the principal in a determinate period, as well as for the payment of interest.

It is essential that the property in such funds should be in the contractor himself, and the appropriation dependent on his own will. If, instead of this, the possession or disposal of them is dependent on the voluntary or occasional concurrence of a number of different wills not under his absolute control, both the one and the other will be too precarious to be trusted. The most wealthy and best established nations are obliged to pledge their funds to obtain credit, and it would be the height of absurdity in us, in the midst of a revolution, to expect to have it on better terms. This credit being to be procured through Congress, the funds ought to be provided, declared, and vested in them.* It is a fact that verifies the want of specific funds—a circumstance which operates powerfully against our obtaining credit abroad is, not a distrust of our becoming independent, but of our continuing united, and with our present confederation the distrust is natural. Both foreigners and the thinking men among ourselves, would have much more confidence in the duration of the Union, if they were to see it supported on the foundation here proposed.

There are some among us ignorant enough to imagine, that the war may be carried on without credit, defraying the expenses of the year with what may be raised within the year. But this is for want of a knowledge of our real resources and expenses.

It may be demonstrated, that the whole amount of the revenue, which these States are capable of affording, will be deficient annually five or six millions of dollars for the support of civil government and of the war.

This is not a conjecture hazarded at random, but the result of experiment and calculation; nor can it appear surprising, when it is considered that the revenues of the United Provinces, equal

* It might, indeed, be a good restraint upon the spirit of running in debt, with which governments are too apt to be infected, to make it a condition of the grants to Congress, that they shall be obliged, in all their loans, to appropriate funds for the payment of principal as well as interest, and such a restriction might be serviceable to public credit.

to these States in population, beyond comparison superior in industry, commerce, and riches, do not exceed twenty-five millions of guilders, or about nine millions and a half of dollars. In times of war, they have raised a more considerable sum, but it has been chiefly by gratuitous combinations of rich individuals, a resource we cannot employ, because there are few men of large fortunes in this country, and these for the most part in land. Taxes in the United Provinces are carried to an extreme which would be impracticable here. Not only the living are made to pay for every necessary of life, but even the dead are tributary to the public for the liberty of interment at particular hours. These considerations make it evident that we could not raise an equal amount of revenue in these States. Yet, in '76, when the currency was not depreciated, Congress emitted, for the expenses of the year, fourteen millions of dollars. It cannot be denied, that there was a want of order and economy in the expenditure of public money, nor that we had a greater military force to maintain at that time than we now have; but, on the other hand, allowing for the necessary increase in our different civil lists, and for the advanced prices of many articles, it can hardly be supposed possible to reduce our annual expense very much below that sum. This simple idea of the subject, without entering into details, may satisfy us, that the deficiency which has been stated is not to be suspected of exaggeration.

Indeed, nations the most powerful and opulent are obliged to have recourse to loans in time of war, and hence it is that most of the States of Europe are deeply immersed in debt. France is among the number, notwithstanding her immense population, wealth, and resources. England owes the enormous sum of two hundred millions sterling. The United Provinces, with all their prudence and parsimony, owe a debt of the generality of fifty millions, besides the particular debts of each province. Almost all the other powers are more or less in the same circumstances.

While this teaches us how contracted and uninformed are the views of those who expect to carry on the war without running in debt. It ought to console us with respect to the amount

of that which we now owe, or may have occasion to incur, in the remainder of the war. The whole, without burthening the people, may be paid off in twenty years after the conclusion of peace.

The principal part of the deficient five or six millions must be procured by loans from private persons at home and abroad. Every thing may be hoped from the generosity of France, which her means will permit, but she has full employment for her revenues and credit in the prosecution of the war on her own part. If we judge of the future by the past, the pecuniary succors from her must continue to be far short of our wants; and the contingency of a war on the continent of Europe makes it possible they may diminish rather than increase.

We have in a less degree experienced the friendship of Spain in this article.

The government of the United Provinces, if disposed to do it, can give us no assistance. The resources of the Republic are chiefly mortgaged for former debts. Happily, it has extensive credit, but it will have occasion for the whole to supply its own exigencies.

Private men, either foreigners or natives, will not lend to a large amount, but on the usual security of funds properly established. This security Congress cannot give, till the several States vest them with revenue, or the means of revenue, for that purpose.

Congress have wisely appointed a superintendent of their finances—a man of acknowledged abilities and integrity, as well as of great personal credit and pecuniary influence.

It was impossible, that the business of finance could be ably conducted by a body of men however well composed or well intentioned. Order in the future management of our moneyed concerns, a strict regard to the performance of public engagements, and of course the restoration of public credit, may be reasonably and confidently expected from Mr. Morris's administration, if he is furnished with materials upon which to operate; that is, if the Federal Government can acquire funds as the basis of his arrangements. He has very judiciously proposed a National Bank,

which, by uniting the influence and interest of the moneyed men with the resources of Government, can alone give it that durable and extensive credit of which it stands in need. This is the best expedient he could have devised for relieving the public embarrassments; but to give success to the plan, it is essential that Congress should have it in their power to support him with unexceptionable funds. Had we begun the practice of funding four years ago, we should have avoided that depreciation of the currency which has been pernicious to the morals and to the credit of the nation; and there is no other method than this to prevent a continuance and multiplication of the evils flowing from that prolific source.

NO. VI.

July 4, 1782.

Let us see what will be the consequences of not authorizing the Federal Government to regulate the trade of these States. Besides the want of revenue and of power, besides the immediate risk to our independence, the dangers of all the future evils of a precarious Union, besides the deficiency of a wholesome concert, and provident superintendence, to advance the general prosperity of trade, the direct consequence will be that the landed interest and the laboring poor, will in the first place fall a sacrifice to the trading interest, and the whole eventually to a bad system of policy, made necessary by the want of such regulating power.

Each State will be afraid to impose duties on its commerce, lest the other States, not doing the same, should enjoy greater advantages than itself, by being able to afford native commodities cheaper abroad, and foreign commodities cheaper at home.

A part of the evils resulting from this would be, a loss to the revenue of those moderate duties, which, without being injurious to commerce, are allowed to be the most agreeable species of taxes to the people. Articles of foreign luxury, while they would contribute nothing to the income of the State, being less dear by

an exemption from duties, would have a more extensive consumption.

Many branches of trade, hurtful to the common interest, would be continued for want of proper checks and discouragements. As revenues must be found to satisfy the public exigencies in peace and in war, too great a proportion of taxes will fall directly upon land, and upon the necessaries of life—the produce of that land. The influence of these evils will be to render landed property fluctuating and less valuable—to oppress the poor by raising the prices of necessaries—to injure commerce by encouraging the consumption of foreign luxuries—by increasing the value of labor—by lessening the quantity of home productions, enhancing their prices at foreign markets, of course obstructing their sale, and enabling other nations to supplant us.

Particular caution ought at present to be observed in this country not to burthen the soil itself and its productions with heavy impositions, because the quantity of unimproved land will invite the husbandmen to abandon old settlements for new, and the disproportion of our population for some time to come will necessarily make labor dear, to reduce which, and not to increase it, ought to be a capital object of our policy.

Easy duties, therefore, on commerce, especially on imports, ought to lighten the burthens which will unavoidably fall upon land. Though it may be said that, on the principle of a reciprocal influence of prices, whereon the taxes are laid in the first instance, they will in the end be borne by all classes, yet it is of the greatest importance that no one should sink under the immediate pressure. The great art is to distribute the public burthens well, and not suffer them, either first or last, to fall too heavily on parts of the community; else, distress and disorder must ensue—a shock given to any part of the political machine vibrates through the whole.

As a sufficient revenue could not be raised from trade to answer the public purposes, other articles have been proposed. A moderate land and poll tax being of easy and unexpensive collection, and leaving nothing to discretion, are the simplest and best that could be devised.

It is to be feared the avarice of many of the landholders will be opposed to a perpetual tax upon land, however moderate. They will ignorantly hope to shift the burthens of the national expense from themselves to others—a disposition as iniquitous as it is fruitless—the public necessities must be satisfied; this can only be done by the contributions of the whole society. Particular classes are neither able nor will be willing to pay for the protection and security of the others, and where so selfish a spirit discovers itself in any member, the rest of the community will unite to compel it to do its duty.

Indeed, many theorists in political economy have held, that all taxes, wherever they originate, fall upon land, and have therefore been of opinion, that it would be best to draw the whole revenue of the State immediately from that source, to avoid the expense of a more diversified collection, and the accumulations which will be heaped in their several stages, upon the primitive sums advanced in those stages which are imposed on our trade. But though it has been demonstrated, that this theory has been carried to an extreme, impracticable in fact; yet it is evident, in tracing the matter, that a large part of all taxes, however remotely laid, will, by an insensible circulation, come at last to settle upon land—the source of most of the materials employed in commerce.

It appears, from calculation made by the ablest master of political arithmetic, about sixty years ago, that the yearly product of all the lands in England amounted to £42,000,000 sterling, and the whole annual consumption at that period, of foreign as well as domestic commodities, did not exceed £49,000,000, and the surplus of the exportation above the importation £2,000,000, on which sums arise all the revenues in whatever shape, which go into the Treasury.

It is easy to infer from this, how large a part of them must, directly or indirectly, be derived from land.

Nothing can be more mistaken, than the collision and rivalship which almost always subsist between the landed and trading interests, for the truth is, they are so inseparably interwoven that one cannot be injured without injury nor benefited without

benefit to the other. Oppress trade, lands sink in value, make it flourish, their value rises; incumber husbandry, trade declines, encourage agriculture, commerce revives. The progress of this mutual reaction might be easily delineated, but it is too obvious to every man, who turns his thoughts, however superficially, upon the subject, to require it. It is only to be regretted, that it is too often lost sight of, when the seductions of some immediate advantage or exemption tempt us to sacrifice the future to the present.

But perhaps the class is more numerous of those, who, not unwilling to bear their share of public burthens, are yet averse to the idea of perpetuity, as if there ever would arrive a period when the State would cease to want revenues, and taxes become unnecessary. It is of importance to unmask this delusion, and open the eyes of the people to the truth. It is paying too great a tribute to the idol of popularity, to flatter so injurious and so visionary an expectation. The error is too gross to be tolerated any where but in the cottage of the peasant. Should we meet with it in the Senate House, we must lament the ignorance or despise the hypocrisy on which it is ingrafted. Expense is in the present state of things entailed upon all governments; though, if we continue united, we shall be hereafter less exposed to wars by land than most other countries; yet while we have powerful neighbors on either extremity, and our frontier is embraced by savages, whose alliance they may without difficulty command, we cannot, in prudence, dispense with the usual precautions for our interior security; as a commercial people, maritime power must be a primary object of our attention, and a navy cannot be created or maintained without ample revenues. The nature of our popular institutions requires a numerous magistracy, for whom competent provision must be made, or we may be certain our affairs will always be committed to improper hands, and experience will teach us that no government costs so much as a bad one.

We may preach, till we are tired of the theme, the necessity of disinterestedness in republics, without making a single proselyte. The virtuous declaimer will neither persuade himself nor

any other person to be content with a double mess of pottage, instead of a reasonable stipend for his services. We might as soon reconcile ourselves to the Spartan community of goods and wives, to their iron coin, their long beards, or their black broth. There is a total dissimilarity in the circumstances, as well as the manners of society among us, and it is as ridiculous to seek for models in the small ages of Greece and Rome, as it would be to go in quest of them among the Hottentots and Laplanders.

The public, for the different purposes that have been mentioned, must always have large demands upon its constituents, and the only question is, whether these shall be satisfied by annual grants, perpetually renewed by a perpetual grant, once for all, or by a compound of permanent and occasional supplies. The last is the wisest course. The Federal Government should neither be independent nor too much dependent. It should neither be raised above responsibility or control, nor should it want the means of maintaining its own weight, authority, dignity and credit. To this end, permanent funds are indispensable, but they ought to be of such a nature, and so moderate in their amount as never to be inconvenient. Extraordinary supplies can be the objects of extraordinary emergencies, and in that salutary medium will consist our true wisdom.

It would seem as if no mode of taxation could be relished, but the worst of all modes, which now prevails by assessment. Every proposal for a specific tax is sure to meet with opposition. It has been objected to a poll tax at a fixed rate, that it will be unequal, and the rich will pay no more than the poor. In the form in which it has been offered in these papers, the poor, properly speaking, are not comprehended, though it is true, that beyond the exclusion of the indigent, the tax has no reference to the proportion of property, but it should be remembered that it is impossible to devise any specific tax that will operate equally on the whole community. It must be the province of the Legislature to hold the scales with a judicious hand, and balance one by another. The rich must be made to pay for their luxuries, which is the only proper way of taxing their superior wealth.

Do we imagine that our assessments operate equally? Nothing can be more contrary to the fact. Wherever a discretionary power is lodged in any set of men over the property of their neighbors, they will abuse it; their passions, prejudices, partialities, dislikes, will have the principal lead in measuring the abilities of those over whom their power extends; and assessors will ever be a set of petty tyrants, too unskilful, if honest, to be possessed of so delicate a trust, and too seldom honest to give them the excuse of want of skill.

The genius of liberty reprobates every thing arbitrary or discretionary in taxation. It exacts that every man, by a definite and general rule, should know what proportion of his property the State demands; whatever liberty we may boast in theory, it cannot exist in fact while assessments continue.

The admission of them among us is a new proof, how often human conduct reconciles the most glaring opposites; in the present case, the most vicious practice of despotic governments, with the freest constitutions and the greatest love of liberty.

The establishment of permanent funds would not only answer the public purposes infinitely better than temporary supplies, but it would be the most effectual way of easing the people.

With this basis for procuring credit, the amount of present taxes might be greatly diminished. Large sums of money might be borrowed abroad, at a low interest, and introduced into the country, to defray the current expenses and pay the public debts; which would not only lessen the demand for immediate supplies, but would throw more money into circulation, and furnish the people with greater means of paying the taxes.

Though it be a just rule that we ought not to run in debt to avoid present expense, so far as our faculties extend, yet the propriety of doing it cannot be disputed, when it is apparent that these are incompetent to the public necessities. Efforts beyond our abilities can only tend to individual distress and national disappointment. The product of the three foregoing articles will be as little as can be required, to enable Congress to

pay their debts, and restore order into their finances. In addition to them—

The disposal of the unlocated lands will hereafter be a valuable source of revenue, and an immediate one of credit. As it may be liable to the same condition with the duties on trade, that is, the product of the sales within each State to be credited to that State, and as the rights of jurisdiction are not infringed, it seems to be susceptible of no reasonable objection.

Mines in every country constitute a branch of the revenue. In this, where nature has so richly impregnated the bowels of the earth, they may in time become a valuable one; and as they require the care and attention of government to bring them to perfection, this care and a share in the profits of it will very properly devolve upon Congress. All the precious metals should absolutely be the property of the Federal Government, and with respect to the others it should have a discretionary power of reserving, in the nature of a tax, such part as it may judge not inconsistent with the encouragement due to so important an object. This is rather a future than a present resource.

The reason of allowing Congress to appoint its own officers of the customs, collectors of the taxes, and military officers of every rank, is to create in the interior of each State, a mass of influence in favor of the Federal Government. The great danger has been shown to be, that it will not have power enough to defend itself, and preserve the Union, not that it will ever become formidable to the general liberty; a mere regard to the interests of the confederacy will never be a principle sufficiently active to crush the ambition and intrigues of different members. Force cannot effect it. A contest of arms will seldom be between the common sovereign and a single refractory member, but between distinct combinations of the several parts against each other. A sympathy of situations will be apt to produce associates to the disobedient. The application of force is always disagreeable—the issue uncertain. It will be wise to obviate the necessity of it, by interesting such a number of individuals in each State, in support of the Federal Government, as will be

counterpoised to the ambition of others, and will make it difficult for them to unite the people in opposition to the first and necessary measures of the Union.

There is something noble and magnificent in the perspective of a great Federal Republic, closely linked in the pursuit of a common interest, tranquil and prosperous at home—respectable abroad; but there is something proportionably diminutive and contemptible in the prospect of a number of petty States, with the appearance only of union, jarring, jealous, and perverse, without any determined direction, fluctuating and unhappy at home, weak and insignificant by their dissensions in the eyes of other nations.

Happy America, if those to whom thou hast intrusted the guardianship of thy infancy, know how to provide for thy future repose, but miserable and undone, if their negligence or ignorance permits the spirit of discord to erect her banner on the ruins of thy tranquillity!

[Note. The other numbers are not found.]

RESOLUTION FOR A GENERAL CONVENTION OF THE STATES.

Passed by the Legislature of New-York, Sunday, July 21st, 1782.

Resolved, That it appears to this Legislature—after full and solemn consideration of the several matters communicated by the Honorable the Committee of Congress, relative to the present posture of our affairs, foreign and domestic, and contained in a letter from the Secretary for Foreign Affairs, respecting the former, as well as of the representations, from time to time made by the Superintendent of the Finances of the United States, relative to his particular department—that the situation

of these States is in a peculiar manner critical, and affords the strongest reason to apprehend, from a continuance of the present constitution of the Continental Government, a subdivision of the public credit, and consequences highly dangerous to the safety and independence of these States.

Resolved, That while this Legislature are convinced by the before mentioned communications, that, notwithstanding the generous intentions of an Ally, from whom we have experienced, and doubtless shall still experience all possible support; exigencies may arise to prevent our receiving pecuniary succors hereafter, in any degree proportioned to our necessities. They are also convinced from facts within their own knowledge, that the provisions made by the respective States for carrying on the war, are not only inadequate to the end, but must continue to be so, while there is an adherence to the principles which now direct the operation of public measures.

Resolved, That it is also the opinion of this Legislature, that the present plan, instituted by Congress, for the administration of their Finances, is founded in wisdom and sound policy. That the salutary effects of it, have already been felt in an extensive degree; and that after so many violent shocks sustained by the public credit, a failure in this system, for want of the support which the States are able to give, would be productive of evils too pernicious to be hazarded.

Resolved, That it appears to this Legislature, that the present British ministry, with a disposition not less hostile than that of their predecessors, taught by experience to avoid their errors, and assuming the appearance of moderation, are pursuing a scheme calculated to conciliate in Europe, and seduce in America. That the economical arrangements they appear to be adopting, are adapted to enlarging the credit of their Government, and multiplying its resources, at the same time that they serve to confirm the prepossessions and confidence of the people, and that the plan of a defensive war on this Continent, while they direct all their attention and resources to the augmentation of their Navy, is that which may be productive of consequences ultimately dangerous to the United States.

Resolved, That it is the opinion of this Legislature, that the present system of these States, exposes the common cause to a precarious issue, and leaves us at the mercy of events over which we have no influence; a conduct extremely unwise in any nation, and at all times, and to a change of which, we are impelled at this juncture, by reasons of peculiar and irresistible weight, and that it is the natural tendency of the weakness and disorders in our national measures, to spread diffidence and distrust among the people, and prepare their minds to receive the impressions the enemy wish to make.

Resolved, That the general state of European affairs, as far as they have come to the knowledge of this Legislature, affords, in their opinion, reasonable ground of confidence, and assures us, that with judicious, vigorous exertion on our part, we may rely on the final attainment of our object; but far from justifying indifference and security, calls upon us by every motive of honor, good faith, and patriotism, without delay, to unite in some system more effectual, for producing energy, harmony, and consistency of measures, than that which now exists, and more capable of putting the common cause out of the reach of contingencies.

Resolved, That in the opinion of this Legislature, the radical source of most of our embarrassments is, the want of sufficient power in Congress, to effectuate that ready and perfect co-operation of the different States, on which their immediate safety and future happiness depend—that experience has demonstrated the confederation to be defective in several essential points, particularly in not vesting the Federal Government either with a power of providing revenue for itself, or with ascertained and productive funds, secured by a sanction so solemn and general as would inspire the fullest confidence in them, and make them a substantial basis of credit—that these defects ought to be without loss of time repaired, the powers of Congress extended, a solid security established for the payment of debts already incurred, and competent means provided for future credit, and for supplying the current demands of the war.

Resolved, That it appears evidently to this Legislature, that

the annual income of these States, admitting the best means were adopted for drawing out their resources, would fall far short of the annual expenditure, and that there would be a large deficiency to be supplied on the credit of the States, which, if it should be inconvenient for those powers to afford, on whose friendship we justly rely, must be sought for from individuals, to engage whom to lend, satisfactory securities must be pledged for the punctual payment of interest, and the final redemption of the principal.

Resolved, That it appears to this Legislature that the foregoing important ends can never be attained by partial deliberations of the States separately; but that it is essential to the common welfare, that there should be as soon as possible a conference of the whole on the subject, and that it would be advisable for this purpose to propose to Congress to recommend, and to each State to adopt the measure of assembling a GENERAL CONVENTION OF THE STATES, specially authorized to revise and amend the CONFEDERATION, reserving a right to the respective LEGISLATURES to ratify their determinations.

July 22, 1782.

Resolved, That the Honorable James Duane, William Floyd, John Morin Scott, Ezra L'Hommedieu, and Alexander Hamilton, Esquires, are duly nominated and appointed delegates, to represent this State in the United States in Congress assembled for the ensuing year.

PLAN OF SPECIFIC TAXATION FOR THE STATE OF NEW-YORK.

Let the method of taxing, throughout the State, by quotas and assessments, be abolished; and, instead thereof, let all taxes be specific.

Let there be a land tax of three pence per acre upon all meadow land in the State, and two pence upon all arable land.

Suppose there are, in the State, about forty thousand farmers, and that each farm, upon an average, contains about ten acres of meadow, and forty acres of arable land: that would make, in the whole State, about

Four hundred thousand acres of meadow land, at three pence per acre,	£5000.0.0	
One million, six hundred thousand acres of arable land, at two pence per acre,	13,333.6.8	—£18,333.6.8
Five millions of acres of waste land, at two shillings per hundred,		5000.0.0
		£23,333.6.8

Let there be a tax upon salt, at two shillings per bushel.

Suppose forty thousand families, each family consuming three bushels:

This will be one hundred and twenty thousand bushels, at two shillings [English, three shillings and four pence sterling, per bushel], £12,000

Let there be a tax upon tobacco of one penny per pound.

Suppose thirty thousand persons consumers of tobacco, at twenty pounds each, per annum:

This would make six hundred thousand pounds, at one penny per pound, £2,500

Let there be a tax upon carriages, of

Six pounds for every coach,
Five pounds for every chariot,
Four pounds for every other four-wheeled carriage,
One pound for every two-wheeled carriage,
Five shillings for every pleasure sleigh.

Suppose, in the whole State,

Thirty coaches, six pounds per coach,	£180
One hundred chariots, at five pounds per chariot,	500
One hundred and fifty phaetons, at four pounds each,	600
Five hundred two-wheeled carriages, at one pound each,	500
Five thousand pleasure sleighs, at five shillings each,	1,250
	£3,030

Let there be a tax upon plate, at the rate of three pence per ounce; and upon gold plate four pence per ounce.

Suppose each family, upon an average, to have six ounces of plate: This would make two hundred and forty thousand ounces at three pence per ounce, £3000

Upon all silver-plated furniture, one penny per ounce.

Let there be a tax upon taverns.

For license to keep an inn or tavern at all, one pound, or two pounds, per annum.

For license to sell spirituous liquors, two pounds or three pounds per annum.

For license to sell wine, two pounds, or five pounds per annum.

For license to keep a billiard table, ten pounds per annum.

For license to play at other games, two pounds per annum.

For selling imported malt liquors, five pounds per annum.

Suppose, in the whole State, five hundred inns or taverns, of which—

Four hundred would sell spirituous liquors,
Two hundred, wine,
Twenty keep billiard tables,
One hundred gaming houses:

Five hundred inns, at one pound [at two pounds, £1000],	£500
Four hundred selling spirituous liquors, at two pounds [at three pounds, £1200],	800
Two hundred, wine, at two pounds [at five pounds, £1000],	400
Twenty billiard tables, at three pounds,	60
One hundred gaming houses, at two pounds,	200
	£1,960

Let there be a tax of ten shillings per head on menial or household servants; bachelors paying two pounds per head.

Suppose ten thousand menial servants:

Nine thousand eight hundred family menials, at ten shillings per head,	£4,900
Two hundred bachelor menials, at ten shillings per head,	400
	£5,300

Let there be, in addition to the Imposts granted to Congress,
Upon all rum of Jamaica proof, three pence.
Upon all brandies of foreign manufacture, three pence.
Upon all other spirituous liquors of foreign manufacture, two pence.
Upon all spirituous liquors distilled in any of the States, three pence.
Molasses, one penny per gallon.
Upon every pound of bohea tea, three pence.
Upon all other teas———
Upon Madeira wine, per gallon, two pence.
Upon all other wines, per gallon, one penny.
Upon loaf sugar, per pound, one penny.
Every pound of snuff, ten pence.
Every coach or chariot, ten pounds.
Every other four-wheeled carriage, five pounds.
Every curricle, chaise, chair, ketereen, or sulky, two pence.
Every bushel of malt, four pence.
Every gallon of porter, ale, beer, or cider, ten pence.
Every pound of cheese, two pence.
Wrought silver plate, per ounce, one shilling.
Wrought gold plate, per ounce, four shillings.
Every clock, twenty shillings.
Every gold watch, twenty shillings.
Every other watch, eight shillings.
Hollow iron ware, per one hundred pounds, four shillings.
Scythes, or Axes, per dozen, twelve shillings.
Saddles, per piece, eight shillings.
Every pair woman's shoes, leather or stuff, six pence.
Every pair woman's silk shoes, one shilling.
Every pair of boots, two shillings.
Every pound of starch, or hair powder, three pence.
Every gallon of linseed oil, six pence.
Every pound of dressed or tanned leather, four pence.
Every pack of playing cards, three pence.
White rope, twine, pipes, beef, pork, butter, candles, soap, anchors, bar iron, hats, raisins, prunes, figs, and currants, three per cent. ad valorem.

Nails, per cwt.,
Upon all mahogany furniture, five per cent. ad valorem.
Upon all mahogany wood, three per cent., with a drawback in case of exportation.
Upon all paper hangings, five per cent., ad valorem.

Let there be a tax upon houses.

For every log house three shillings per room (exclusive of garrets and cellars).
For every other house of three rooms and under (exclusive as before), four shillings per room.
For every other house of four rooms, five shillings per room.
For every house of five rooms, six shillings per room.
For every house of six rooms and upwards, eight shillings per room.
For every room of any house painted on the wooden work inside, five shillings additional per room.
For every room papered inside, ten shillings per room additional.
For every marble chimney piece, twenty shillings additional.
For every stucco roof, forty shillings additional.

This tax may be computed to produce forty thousand pounds.

Let there be a tax upon writs, to be paid by the lawyers, and not allowed in taxable costs,
Of two shillings for each chancery and Supreme Court seal.
And one shilling for each County and Mayor's Court seal.

Let the Bank be incorporated on condition of lending one-eighth of its income, on landed security, towards forming a loan office.

PLAN OF A LOAN OFFICE.

The Interest of the two hundred thousand poands,	£10,000
The tax on salt,	12,000
The tax on taverns,	2,000
Tobacco tax,	

APPROPRIATION OF THE FOREGOING TAXES.

1stly. That upon land to the support of internal government.

2dly. Seal tax and Carriage tax, } to the support of the judges.
3dly. House tax to Congress, for supplementary fund.
4thy. Salt tax, Tavern tax, Tobacco tax, } for constituting a loan office.

All the surplus of these taxes, and amount of the other taxes, to form an aggregate fund for contingencies, to supply federal treasury, etc.

MODE OF COLLECTION.

Land Tax.

The assessors of each district to meet on a day, and at a place, certain in each year, to receive from the possessors of lands, a statement of the quantity of lands, specifying the different kinds holden by him in that district, thus:

Acres.

Meadow land, ...
Arable land, ...
Wood or waste land, ...

This statement to be made on oath (according to the best of knowledge and belief, to be administered by the assessors), and to be entered in a book kept for that purpose, in which shall be carried out the amount of the tax; a copy of which, delivered to the several collectors, signed by the assessors, or one of them, shall be their warrant to collect.

As to such persons as do not appear, the assessors to make an estimate of their land, according to the best of their judgment and belief.

And if they suspect concealment, they shall order a survey; and in case it be found that there is a concealment to the extent of one acre in twenty, the survey shall be at the expense of the party, to be added to his tax of the succeeding year; and further, the party shall be liable to forfeit, to be recovered in an action of debt, forty shillings for every acre concealed, if such concealment shall appear to the jury, to have been not through

ignorance or mistake, but with intent to defraud the revenue. If concealment not found to that extent, expense of survey shall be by public, to be paid by treasurer, upon a certificate from two of the assessors.

A day certain, in each year, to be fixed for the payment of the tax; and if not paid at the time, the collector shall immediately distrain; to proceed in the mode practised in case of distress for rent, with the same penalties for rescue, etc.; and no replevin without first paying the money.

And where no sufficient distress can be found, to be recovered by action of debt.

House Tax until provided for by Congress.

The collector of each ward, precinct, or district, to visit each house once in a year, or some day between the and the of ; and make a list of the different kinds of rooms upon which he shall calculate the amount of the tax.

This tax to be also paid on a day certain, different, and at some distance, from the day for payment of the land tax; and to be collected in the same manner as land tax.

In case the possessor of the house shall have any dispute with the collector about the descriptions of any of the rooms, he may appeal to the assessors at their aforesaid meeting, who shall examine the party and the collector on oath, and decide as shall appear to them right.

Salt, Tobacco, and other enumerated articles.

To be collected in the present mode of collecting the customs, except that one year shall be allowed for payment of the additional duties; at the end of which all drawbacks shall be discounted.

Carriage Tax. Servant Tax.

Collector, at the time he visits the houses, to take a list, from

the information of the persons in the houses, of the carriages and menial servants.

Each person, having carriages and menial servants, shall be obliged to give such information, under the penalty of twenty pounds for concealment of each carriage and servant; to be recovered by action of debt, for the benefit of the informer.

These taxes to be collected at the same time, and in the same manner, with the house tax.

Seal Tax.

To be paid at the time of sealing the writs, and accounted for, once a year, by the persons having custody of the seals, to the county treasurer, who will themselves be chargeable with a tax on every seal put to any process.

N. B. All bills of cost to be taxed by the Clerk of the Court; and the fee for taxing to be accounted for in the same manner to the county treasurers.

The fees for seals, and for taxing bills of cost in the Supreme Court and Chancery, to be accounted for to the treasurer of the State.

Tavern Tax.

The treasurer of the State to furnish each county treasurer with a certain number of licenses, expressive of the different purposes; for which he shall charge such county treasurer, who shall deliver out the licenses to the supervisors in equal proportions, charging each for his proportion. And the supervisors to deliver them out to the persons applying and paying for them.

Once in each year the supervisors to account with the county treasurer, and to be charged with all the blank licences they do not then return.

The same to take place between the county treasurer and the State treasurer; who shall be chargeable in like manner, unless in case of insolvency of supervisors, to be proved to the satisfaction of a jury.

RESOLUTIONS IN CONGRESS.

December 6, 1782.

Resolved, That the Superintendent of Finance be, and he is hereby directed to represent to the Legislatures of the several States, the indispensable necessity for their complying with the requisitions of Congress, for raising 1,200,000 dollars, for paying a year's interest of the domestic debt of the United States, and 2,000,000 of dollars towards defraying the expenses of the estimate for the ensuing year; and the inconveniences, embarrassments, and injuries to the public service, which will arise from the States, individually making appropriations of any part of the said 2,000,000 of dollars, or of any other moneys required by the United States in Congress assembled; assuring them withal, that Congress are determined to make the fullest justice to the public creditors an invariable object of their counsels and exertions; that a deputation be sent to the State of Rhode Island, for the purpose of making a full and just representation of the public affairs of the United States, and of urging the absolute necessity of a compliance with the resolution of Congress, of the 3d day of February, 1781, respecting the duty on Imports and Prizes, as a measure essential to the safety and reputation of these States.

SINKING FUND.

December 16, 1782.

Whereas, It is essential to justice and to the preservation of public credit, that whenever a nation is obliged, by the exigencies of public affairs, to contract a debt, proper funds should be

established, not only for paying the annual value or interest of the same, but for discharging the principal within a reasonable period, by which a nation may avoid the evils of an excessive accumulation of debt; therefore,

Resolved, That whenever the net product of any funds, recommended by Congress and granted by the States, for funding the debt already contracted, or for procuring further loans for the support of the war, shall exceed the sum requisite for paying the interest of the whole amount of the national debt, which these States may owe at the termination of the present war; the surplus of such grants shall form a SINKING FUND, and be inviolably appropriated to the payment of the principal of the said debt, and shall on no account be diverted to any other purpose. And in order that the several States may have proper information of the state of their finances, it is further

Resolved, That as soon as the public debt can be liquidated, each State be annually furnished with the amount thereof, and of the interest thereon; and also of the proceeds and disposition of the funds provided for the redemption thereof.

That the faith of the United States be pledged for the observance of the foregoing resolutions, and that if any State shall think it may be necessary to make it a condition of their grants, the same will be considered by Congress as consistent with the resolution of the 23d February, 1781.

REPORT ON IMPOST DUTY.

By the United States in Congress assembled, December 16, 1782.

The Committee, consisting of Mr. Hamilton, Mr. Madison, and Mr. Fitzsimmons, to whom was referred the letter of the thirtieth of November, from the Honorable William Bradford, Speaker of the lower House of Assembly of the State of Rhode Island, containing, under three heads, the reasons of that State for refusing their compliance with the recommendation of Congress for a duty on imports and prize goods, report:

That they flatter themselves the State, on a reconsideration of the objections they have offered, with a candid attention to the arguments which stand in opposition to them, will be induced to retract their dissent, convinced that the measure is supported on the most solid grounds of equal justice, policy, and general utility. The following observations, contrasted with each head of the objections, successively, will furnish a satisfactory answer to the whole.

First objection. "That the proposed duty would be unequal in its operation, bearing hardest upon the most commercial States, and so would press peculiarly hard upon that State which draws its chief support from commerce."

The most common experience, joined to the concurrent opinions of the ablest commercial and political observers, have established, beyond controversy, this general principle: "That every duty on imports is incorporated with the price of the commodity, and ultimately paid by the consumer, with a profit on the duty itself, as a compensation to the merchant for the advance of his money."

The merchant considers the duty demanded by the State on the imported article, in the same light with freight or any similar charge, and, adding it to the original cost, calculates his profit on the aggregate sum. It may happen that, at particular conjunctures, where the markets are overstocked, and there is a competition among the sellers, this may not be practicable; but, in the general course of trade, the demand for consumption preponderates; and the merchant can with ease indemnify himself, and even obtain a profit on the advance. As a consumer, he pays his share of the duty, but it is no further a burthen upon him. The consequence of the principle laid down, is, that every class of the community bears its share of the duty in proportion to its consumption; which last is regulated by the comparative wealth of the respective classes, in conjunction with their habits of expense or frugality. The rich and luxurious pay in proportion to their riches and luxury; the poor and parsimonious, in proportion to their poverty and parsimony. A chief excellence of this mode of revenue, is, that it preserves a just measure to

the abilities of individuals, promotes frugality, and taxes extravagance. The same reasoning, in our situation, applies to the intercourse between two States: if one imports and the other does not, the latter must be supplied by the former. The duty being transferred to the price of the commodity, is no more a charge on the importing State for what is consumed in the other, than it is a charge on the merchant for what is consumed by the farmer or artificer. Either State will only feel the burthen in a ratio to its consumption; and this will be in a ratio to its population and wealth. What happens between the different classes of the same community, internally happens between the two States; and as the merchant, in the first case, so far from losing the duty himself, has a profit on the money he advances for that purpose; so the importing State, which, in the second case, is the merchant with respect to the other, is not only reimbursed by the non-importing State, but has a like benefit on the duty advanced.

It is, therefore, the reverse of a just position, that the duty proposed will bear hardest on the most commercial States: it will, if any thing, have a contrary effect, though not in a sufficient degree to justify an objection on the part of the non-importing States. For it is as reasonable they should allow an advance on the duty paid as on the first cost, freight, or any incidental charge. They have also other advantages in the measure, fully equivalent to this disadvantage. Over nice and minute calculations, in matters of this nature, are inconsistent with national measures, and, in the imperfect state of human affairs, would stagnate all the operations of government. Absolute equality is not to be attained: to aim at it, is pursuing a shadow at the expense of the substance; and, in the event, we should find ourselves wider of the mark, than if, in the first instance, we were content to approach it with moderation.

Second Objection. "That the recommendation proposes to introduce into that and the other States, officers unknown and unaccountable to them, and so is against the Constitution of the State."

It is not to be presumed that the Constitution of any State

could mean to define and fix the precise numbers and descriptions of all officers to be permitted in the State, excluding the creation of any new ones, whatever might be the necessity derived from that variety of circumstances incident to all political institutions. The Legislature must always have a discretionary power of appointing officers, not expressly known to the Constitution; and this power will include that of authorizing the Federal Government to make the appointments in cases where the general welfare may require it. The denial of this would prove too much: to wit, that the power given by the Confederation to Congress, to appoint all officers in the post-office, was illegal and unconstitutional.

The doctrine advanced by Rhode Island would, perhaps, prove also, that the Federal Government ought to have the appointment of no internal officers whatever; a position that would defeat all the provisions of the Confederation, and all the purposes of the Union. The truth is, that no Federal Constitution can exist without powers that, in their exercise, affect the internal police of the component members. It is equally true, that no government can exist without a right to appoint officers for those purposes which proceed from, and concentre in, itself: and therefore the Confederation has expressly declared, that Congress shall have authority to appoint all such "civil officers as may be necessary for managing the general affairs of the United States under their direction." All that can be required, is, that the Federal Government confine its appointments to such as it is empowered to make by the original act of union, or by the subsequent consent of the parties. Unless there should be express words of exclusion in the Constitution of a State, there can be no reason to doubt that it is within the compass of legislative discretion to communicate that authority.

The propriety of doing it upon the present occasion, is founded on substantial reasons.

The measure proposed is a measure of necessity. Repeated experiments have shown, that the revenue to be raised within these States, is altogether inadequate to the public wants. The deficiency can only be supplied by loans. Our applications to

the foreign powers, on whose friendship we depend, have had a success far short of our necessities. The next resource is to borrow from individuals. These will neither be actuated by generosity nor reasons of state. 'Tis to their interest alone we must appeal. To conciliate this, we must not only stipulate a proper compensation for what they lend, but we must give security for the performance. We must pledge an ascertained fund; simple and productive in its nature, general in its principle, and at the disposal of a single will. There can be little confidence in a security under the constant revisal of thirteen different deliberatives. It must, once for all, be defined and established on the faith of the States solemnly pledged to each other, and not revocable by any without a breach of the general compact.

'Tis by such expedients that nations, whose resources are understood, whose reputations and governments are erected on the foundation of ages, are enabled to obtain a solid and extensive credit. Would it be reasonable in us to hope for more easy terms, who have so recently assumed our rank among the nations? Is it not to be expected, that individuals will be cautious in lending their money to a people in our circumstances, and that they will at least require the best security we can give?

We have an enemy vigilant, intriguing, well acquainted with our defects and embarrassments. We may expect that he will make every effort to instil diffidences into individuals; and, in the present posture of our internal affairs, he will have too plausible ground on which to tread. Our necessities have obliged us to embrace measures, with respect to our public credit, calculated to inspire distrust. The prepossessions on this article must naturally be against us, and it is therefore indispensable we should endeavor to remove them, by such means as will be the most obvious and striking.

It was with these views Congress determined on a general fund; and the one they have recommended must, upon a thorough examination, appear to have fewer inconveniences than any other.

It has been remarked, as an essential part of the plan, that the fund should depend on a single will. This will not be the case,

unless the collection, as well as the appropriation, is under the control of the United States; for it is evident, that after the duty is agreed upon, it may, in a great measure, be defeated by an ineffectual mode of levying it. The United States have a common interest in a uniform and equally energetic collection; and not only policy, but justice to all the parts of the Union, designates the utility of lodging the power of making it where the interest is common. Without this, it might, in reality, operate as a very *unequal tax.*

Third Objection. "That by granting to Congress a power to collect moneys from the commerce of these States, indefinitely as to time and quantity, and for the expenditure of which they are not to be accountable to the States, they would become independent of their constituents; and so the proposed impost is repugnant to the liberty of the United States."

Admitting the principle of this objection to be true, still it ought to have no weight in the present case, because there is no analogy between the principle and the fact.

Firstly. The fund proposed is sufficiently definite as to time, because it is only co-extensive with the existence of the debt contracted, and to be contracted, in the course of the war. Congress are persuaded that it is as remote from the intention of their constituents to perpetuate that debt, as to extinguish it at once by a faithless neglect of providing the means to fulfil the public engagements. Their ability to discharge it in a moderate time, can as little be doubted as their inclination; and the moment that debt ceases, the duty, so far as respects the present provision, ceases with it.

The resolution recommending the duty, specifies the object of it to be the discharge of the principal and interest of the debts already contracted, or which may be contracted, on the faith of the United States for supporting the present war.

Secondly. The rate per cent. is fixed; and it is not at the option of the United States to increase it. Though the product will vary according to the variations in trade, yet, as there is this limitation of the rate, it cannot be properly said to be indefinite as to quantity.

By the Confederation, Congress have an absolute discretion in determining the quantum of revenue requisite for the national expenditure. When this is done, nothing remains for the States, separately, but the mode of raising. No State can dispute the obligation to pay the sum demanded, without a breach of the Confederation; and when the money comes into the treasury, the appropriation is the exclusive province of the Fœderal Government. This provision of the Confederation (without which would be an empty form) comprehends in it the principle, in its fullest latitude, which the Objection under consideration treats as repugnant to the liberty of the United States; to wit, an indefinite power of prescribing the quantity of money to be raised, and of appropriating it when raised.

If it be said that the States, individually, having the collection in their own hands, may refuse a compliance with exorbitant demands, the Confederation will answer, that this is a point of which they have no constitutional liberty to judge. Such a refusal would be an exertion of power, not of right; and the same power which could disregard a requisition made on the authority of the Confederation, might at any time arrest the collection of the duty.

The same kind of responsibility which exists, with respect to the expenditure of money furnished in the forms hitherto practised, would be equally applicable to the revenue from the imports.

The truth is, the security intended to the general liberty in the Confederation, consists in the frequent election, and in the rotation of, the members of Congress, by which there is a constant and an effectual check upon them. This is the security which the people in every State enjoy against the usurpations of their internal governments; and it is the true source of security in a representative republic. The government, so constituted, ought to have the means necessary to answer the end of its institution. By weakening its hands too much, it may be rendered incapable of providing for the interior harmony, or the exterior defence of, the State.

The measure in question, if not within the letter, is within

the spirit of the Confederation. Congress, by that, are empowered to borrow money for the use of the United States; and, by implication, to concert the means necessary to accomplish the end. But without insisting upon this argument, if the Confederation has not made proper provision for the exigencies of the States, it will be at all times the duty of Congress to suggest further provisions: and when their proposals are submitted to the unanimous consent of the States, they can never be charged with exceeding the bounds of their trust. Such a consent is the basis and sanction of the Confederation, which expressly, in the thirteenth article, empowers Congress to agree to, and propose, such additional provision.

The remarks hitherto made, have had reference, principally, to the future prosecution of the war. There still remains an interesting light in which the subject ought to be viewed.

The United States have already contracted a debt in Europe, and in this country, for which their faith is pledged. The capital of this debt can only be discharged by degrees: but a fund for this purpose, and for paying the interest annually, on every principle of policy and justice, ought to be provided. The omission will be the deepest ingratitude and cruelty to a large number of meritorious individuals, who, in the most critical periods of the war, have adventured their fortunes in support of our independence. It would stamp the national character with indelible disgrace.

An annual provision for the purpose will be too precarious. If its continuance and application were certain, it would not afford complete relief. With many, the regular payment of interest, by occasional grants, would suffice; but with many more it would not. These want the use of the principal itself; and they have a right to it: but since it is not in our power to pay off the principal, the next expedient is to fund the debt, and render the evidences of it negotiable.

Besides the advantage to individuals from this arrangement, the active stock of the nation would be increased by the whole amount of the domestic debt, and of course the abilities of the community to contribute to the public wants: the national credit would revive and stand hereafter on a secure basis.

This was another object of the proposed duty.

If it be conceded that a similar fund is necessary, it can hardly be disputed that the one recommended is the most eligible. It has been already shown, that it affects all parts of the community in proportion to their consumption, and has therefore the best pretensions to equality. It is the most agreeable tax to the people that can be imposed, because it is paid insensibly, and seems to be voluntary.

It may, perhaps, be imagined that it is unfavorable to commerce; but the contrary can easily be demonstrated. It has been seen that it does not diminish the profit of the merchant, and of course can be no diminution of his inducements to trade. It is too moderate in its amount to discourage the consumption of imported goods, and cannot, on that account, abridge the extent of importations. If it even had this effect, it would be an advantage to commerce, by lessening the proportion of our imports to our exports, and inclining the balance in favor of this country.

The principal thing to be consulted for the advancement of commerce, is to promote exports. All impediments to these, either by way of prohibition, or by increasing the prices of native commodities, decreasing by that means their sale and consumption at foreign markets, are injurious. Duties on exports have this operation. For the same reason, taxes on possessions, and the articles of our own growth or manufacture, whether in the form of a land tax, excise, or any other, are more hurtful to trade than impost duties. The tendency of all such taxes is to increase the prices of those articles which are the objects of exportation, and to enable others to undersell us abroad. The farmer, if he pays a heavy land tax, must endeavor to get more for the products of his farm; the mechanic and laborer, if they find the necessaries of life grow dearer by an excise, must endeavor to exact higher wages: and these causes will produce an increase of prices within, and operate against foreign commerce.

It is not, however, to be inferred, that the whole revenue ought to be drawn from imports; all extremes are to be rejected. The chief thing to be attended to, is, that the weight of the taxes

fall not too heavily, in the first instance, upon particular parts of the community. A judicious distribution to all kinds of taxable property, is a first principle in taxation. The tendency of these observations is only to show, that taxes on possessions, on articles of our own growth and manufacture, are more prejudicial to trade than duties on imports.

The observations which conclude the letter on which these remarks are made, naturally lead to reflections that deserve the serious attention of every member of the Union. There is a happy mean between too much confidence and excessive jealousy, in which the health and prosperity of a State consist. Either extreme is a dangerous vice. The first is a temptation, to men in power, to arrogate more than they have a right to; the latter enervates government, prevents system in the administration, defeats the most salutary measures, breeds confusion in the State, disgusts and discontents among the people, and may eventually prove as fatal to liberty as the opposite temper.

It is certainly pernicious to leave any government in a situation of responsibility disproportioned to its power.

The conduct of the war is intrusted to Congress, and the public expectation turned upon them without any competent means at their command to satisfy the important trust. After the most full and solemn deliberation, under a collective view, of all the public difficulties, they recommended a measure which appears to them the corner-stone of the public safety: they see this measure suspended for nearly two years; partially complied with by some of the States; rejected by one of them, and in danger, on that account, to be frustrated; the public embarrasments every day increasing; the dissatisfaction of the army growing more serious; the other creditors of the public clamoring for justice; both irritated by the delay of measures for their present relief or future security; the hopes of our enemies encouraged to protract the war; the zeal of our friends depressed by an appearance of remissness and want of exertion on our part; Congress harassed; the national character suffering; and the national safety at the mercy of events.

This state of things cannot but be extremely painful to Con-

gress; and appear to your Committe to make it their duty to be urgent, to obviate the evils with which it is pregnant.

Resolved, That Congress agree to the said report.

AS TO FURTHER PROVISION FOR THE PAYMENT OF INTEREST ON THE PUBLIC DEBT.

December, 1782.

Resolved, That a Committee be appointed to consider what further and other provision may be made for discharging the interest that is, or may be, due on loan office certificates, and other liquidated debts of the United States, and be also directed to revise the requisition for the service of the preceding and present year, and to report whether the same ought to be continued or altered.

COMPENSATION TO BARON DE STEUBEN.

December 30, 1782.

The Committee, consisting of Mr. Hamilton, Mr. Clark, and Mr. Carroll, to whom was referred a letter of the 5th from Ma or General the Baron de Steuben, having conferred with him thereupon, submit to the consideration of Congress the following facts, resulting from the communications made to them, supported by the testimonials of the Commander-in-Chief, and many other principal officers of the army.

1st. That the Baron de Steuben was in Europe possessed of respectable military rank, and different posts of honor and emolument, which he relinquished to come to America, and offer his services at a critical period of the war, and without any previous stipulations.

2dly. That on his arrival, he actually engaged in the army in

a very disinterested manner, and without compensations similar to those which had been made to several other foreign officers.

3dly. That under singular difficulties and embarrassments in the department in which he has been employed, he has rendered very important and substantial services, by introducing into the army a regular formation and exact discipline, and by establishing a spirit of order and œconomy in the interior administration of the regiments, which, besides other advantages, have been productive of immense savings to the United States. That, in the command in which he has been employed, he has on all occasions conducted himself like a brave and experienced officer. The Committee are therefore of opinion, that the sacrifices and services justly entitle him to the distinguished notice of Congress, and to a generous compensation, whenever the situation of public affairs will admit. The Committee further report that the Baron de Steuben has considerable arrearages of pay due to him from these States on a liquidated account, and that having exhausted his resources in past expenses, it is now indispensable that a sum of money should be paid him for his present support, and to enable him to take the field another campaign, and propose that the sum of $2400 be paid to him for that purpose, and charged to his account aforesaid.

VALUATION OF LANDS AND A CENSUS.

January 6, 1783.

Resolved, That in order to enable Congress to form an eventual plan towards carrying into execution the eighth article of the Confederation, the several States be required to pass laws for forming or dividing their respective States into such districts as they judge most convenient for procuring an accurate valuation of the lands, and of the buildings and improvements thereon, and to appoint commissioners in each district to return to them the quantity of land in such district, the quantity surveyed, the

quantity in actual occupation, the general quality of the land, the number and kind of buildings, the average rate at which lands under improvement, and lands unimproved, are usually sold in such district, and also an account of the males between sixteen and sixty, distinguishing the whites from the blacks within such district, and that the executive of each State transmit such returns to Congress on or before the first day of January, 1784.

QUARTER-MASTER GENERAL'S DEPARTMENT.

January 9, 1783.

The Committee to whom were referred the letter from the Quarter-Master General of the 4th December last, have conferred with him, find that there are serious omissions in the plan adopted by Congress the 23d of October last, for regulating the Quarter-Master's Department, and are of opinion that some of the salaries of particular officers therein are reduced too low.

They therefore recommend that the Resolutions of the aforesaid 23d of October be repealed, and the following plan be substituted in their place.

REGULATIONS FOR THE QUARTER-MASTER GENERAL'S DEPARTMENT.

That the resolve of Congress of the 23d October last be repealed, and the following regulations adopted in its stead.

Resolved, That there be one Quarter-Master General, who, on every vacancy, shall be appointed by Congress.

That the Quarter-Master General, with the approbation of the Commander-in-Chief, appoint the following officers for the armies of the United States.

For the Main Army.

One Deputy Quarter-Master.
One Commissary of Forage.
One Wagon-Master.
One Director, } of a company of Artificers.
One Sub-Director, }

For a Separate Army.

One Deputy Quarter-Master.
One Deputy Commissary of Forage.
One Deputy Wagon-Master.
One Director, and } of a company of Artificers.
One Sub-Director, }

Provided that this shall only operate in future appointments, and not derange the company of Artificers at present formed in the Southern Army, under the resolution of 29th March, 1781.

And as many Assistants, Clerks, Forage-Masters, and Wagon Conductors, as the service may require.

That the pay and rations of the officers above-mentioned, including their pay and rations in the line of the army, shall be as follows:

Quarter-Master General, .	$250	per month,	15	rations per day.
Deputy with a separate army,	125	"	12	"
Deputy with the main army,	75	"	5	"
Commissary of Forage, . .	75	"	5	"
Deputy with a separate army,	60	"	4	"
Wagon-Master, . . .	75	"	5	"
Deputy with a separate army,	50	"	4	"

Assistant Quarter-Master.

One principal in a separate army,	$50	per month,	3	rations per day.
All others not exceeding . .	40	"	2	"
Clerks, each, ...	30	"	2	"
Directors of Artificers, each, .	40	"	2	"
Sub-Directors, each, . . .	30	"	2	"
Forage-Masters, each, . .	20	"	2	"
Wagon Conductors, each, . .	20	"	2	"

That the following be the proportion of wagons and led horses to the different ranks of officers, unless otherwise directed in special cases by the Commander-in-Chief, or commanding officer of a separate corps.

The Commander-in-Chief, and Commanding Officer of a separate army, for themselves and families, as many as they may find necessary.

Major-General and family, one covered four-horse wagon, and one open two-horse wagon.

Brigadier-General and family, one covered four-horse wagon.

Field Officers of a Regiment, or other corps, one covered four-horse wagon.

Field Officers of Engineers, as near as may be, in the same proportion.

Captains and Subalterns of a Regiment, or other corps, one covered four-horse wagon, and one open four-horse wagon.

Surgeon and Mate, Paymaster, Adjutant and Quarter-Master, one covered four-horse wagon.

Brigade Chaplain, Major and Quarter-Master, one covered two-horse wagon.

Every hundred men, for their tents, but to be varied according to the weight of the tents and state of the roads, one open four-horse wagon.

Quarter-Master General, for himself, as many as he shall find necessary.

Deputy Quarter-Master, in a separate army, the same.

Commissary of Forage and Clerks, one covered two-horse wagon.

Deputy Commissary of Forage and Clerks, do.

Wagon-Master and Clerks, do.

Deputy Wagon-Master and Clerks, do.

Assistant Quarter-Master, who is storekeeper for himself and clerks, do.

Each company of Artificers, for their tents and baggage, do.

Inspector-General, for himself and family, one covered four-horse wagon, and one covered two-horse, and one open two-horse wagon.

Adjutant-General and assistants, one covered four-horse wagon, one covered two-horse wagon, and one open two-horse wagon.

Deputy Adjutant-General and assistant, one covered four-horse wagon.

Judge-Advocate, one covered two-horse wagon.

Deputy Judge-Advocate, with a separate army, one covered two-horse wagon.

Commissary of Prisoners, one covered two-horse wagon.

Deputy do., a separate army, do.

Provost Marshal, with prisoners and guard, one open four-horse wagon.

Field Commissary of Military Stores, with his clerks and conductors, one covered two-horse wagon.

Deputy do., for a separate army, with clerks and conductors, one do. two-horse wagon.

Deputy Paymaster, with the main or a separate army, one do. two-horse wagon.

Field Postmaster, one-horse wagon each.

Each Geographer, with his assistant, one covered two-horse wagon.

Director of Military Hospitals, one covered two-horse wagon.

Physician, Hospital Surgeons, and Mates, with the main army, one covered four-horse-waggon.

Deputy Director, one covered two-horse wagon.

Hospital Surgeons and Mates, with a separate army, one covered two-horse wagon.

Hospital Steward and attendants with each army, one open two-horse wagon.

Provided, that if the number of wagons allotted above should prove insufficient, the Quarter-Master General may occasionally fur-

nish such additional carriages as the Commander-in-Chief, or chief Commanding Officer of a separate army, or the Secretary at War, may direct.

That no military or staff officer shall own, or be in any manner interested in any boat, shallop, wagon, or other carriage, horse, or team, employed, on hire or contract, in the service of the United States.

That a ration of forage shall consist of fourteen pounds of hay, and eight quarts of oats, or other grain equivalent, for a saddle-horse; and of sixteen pounds of hay and twelve quarts of oats, or other grain equivalent, for a wagon-horse per day.

That there be issued to the Commander-in-Chief, and to the commanding officer of a separate army, and to those of their suite, as many rations as the service may require.

That for saddle-horses there be allowed—

To a Major-General and family, seven rations.

Brigadier-General and do., five.

Brigade Major and Chaplain, each one.

Field Officers, of whatsoever corps, each two.

Regimental Surgeons, Paymaster, Adjutant, Quarter-Masters, each one.

Captains and subalterns of Engineers, each one.

Captains and subalterns of the mounted troops of Dragoons, each one.

Quarter-Master General, as the service may require.

Deputy, with a separate army, the same.

Deputy, with the main army, two rations.

Principal assistant, with a separate army, two.

All other assistants, each one.

Commissary of Forage, two.

Each of his clerks, one.

Deputy, with a separate army, two.

Clerks, each one.

Forage-Masters, each one.

Wagon-Master, two.

Clerk, one.

Deputy Wagon-Master, with a separate army, two.

Clerk.

Wagon Conductors, each one.

Inspectors, in addition to what they draw in the line, each one.

Assistant Inspectors, each one.

Adjutant-General, three.

Deputy Adjutant-General, with a separate army, three.

Assistants to the Adjutant and Deputy Adjutant-General, each one.

Commissary of Prisoners, two.

Deputy, with a separate army, two.

Other Deputies, each one.

Judge-Advocate, two.

Deputy, with a separate army, one.

Deputy, with the main army, one.
Field Commissary of Military Stores, two.
Deputy, with a separate army, two.
Deputy Paymaster, one.
Field Paymaster, one.
Geographers, each two.
Assistant do., each one.
Director of Military Hospital, two.
Deputy, with a separate army, two.
Physician to the army, two.
Hospital Surgeons, each one.

That any of the officers entitled to forage, who shall keep their horses at their own expense, shall be paid therefor, by the Quarter-Master General, at the average price given by him for the forage of the army.

Resolved, That the Quarter-Master General, with the approbation of the Secretary at War, shall appoint so many assistants, to reside in the several States, as the service may require.

That all officers in the Quarter-Master General's Department, of whatever denomination, shall take the oaths of allegiance and the oath of office prescribed by Congress, before they enter on business.

That the Quarter-Master General make a return of the name and station of each person to be appointed in his department.

That in settling the accounts of officers in the said department, no pay or allowance whatever be granted to any person employed therein, whose name and employment, together with a certificate of his having taken the aforesaid oaths, shall not have been returned within two months after the acceptance of such office.

ARMY MEMORIAL.

January 25, 1783.

The Grand Committee, consisting of a member from each State, report: That they have considered the contents of a memorial, presented by the army, and find that they comprehend five different articles. "1st. Present pay. 2d. A settlement of accounts of the arrearages of pay and security for what is due. 3d. A commutation of the half-pay, allowed by different resolutions of Congress, for an equivalent in gross. 4th. A settlement of the accounts of deficencies of rations and compensation. 5th. A settlement of the accounts of deficencies of clothing and compensation." Whereupon,

Resolved, As to the first—that the Superintendent of Finance be directed, conformably to the measures already taken for that purpose, as soon as the state of the public finances will permit, to make such payment, and in such manner, as he shall think proper, until the further order of Congress.

Resolved, With respect to the second article—so far as relates to the settlement of accounts—that the several States be called upon to complete, without delay, the settlement with their respective lines of the army, up to the first day of August, 1780, and that the Superintendent of Finance be directed to take such measures as shall appear to him most proper for effecting the settlement from that period.

As to what relates to the providing of security for what shall be found due on such settlement,

Resolved, That the troops of the United States, in common with all the creditors of the same, have an undoubted right to expect such security; and that Congress will make every effort in their power to obtain from the respective States substantial funds, adequate to the object of funding the whole debt of the United States, and will enter upon an immediate and full consideration of the nature of such funds, and the most likely mode of obtaining them.

REPORT BY HAMILTON OF A COMMITTEE UPON THE MEMORIALS OF THE REPRESENTATIVES OF THE COMMONWEALTH OF PENNSYLVANIA, OF THE 28TH OF AUGUST, AND 12TH OF NOVEMBER LAST.

January 30, 1783.

The Committee of the 28th August, states that their constituents labor under grievances, because they are not enabled to settle their accounts against the United States, and because they cannot obtain payment of the debts due to them by the public, nor receive interest on loan-office certificates, dated subsequent to the month of February, 1778. It states further, that appre-

hensions had taken place, that the interest on certificates of a prior date would be suspended; that other States made, and were making provision for ascertaining and paying sundry debts due to their citizens, and that the suspension of debts complained of, was a material impediment to the collection of taxes; after which follows a request, that Congress will be pleased to devise and recommend such general plan, as they shall think adequate and effectual, for settling and ascertaining the unliquidated debts of the United States, and for paying the same, or at least some part thereof, and also for the regular and punctual payment of the interest on all the public debts, as well on loan as otherwise, until the principal shall finally be discharged.

The subsequent memorial of the 12th November, after referring particularly to the former, and observing that the business was yet uneffected, declares the assembly to be deeply impressed with the absolute necessity, that speedy and effectual measures be taken to afford relief to the public creditors, at least so far as to liquidate and ascertain their respective claims, and to secure to them the payment of the interest due thereon, until the principal be discharged; and then requests, that Congress will be pleased to give them such information as will enable the House to judge what steps it may be proper to take, in order to afford that effectual relief to the public creditors in Pennsylvania, which they conceive it to be their indispensable duty to procure.

On these memorials Congress remark:

That the objects to which they relate must necessarily depend on the compliances of the several States with the requisitions of Congress. That the interest payable by bills of exchange on loan-office certificates, continued until an express declaration made to Congress, that those who should draw bills for that purpose, must provide for the payment of them. That Congress are not informed of any State which has taken separate measures for satisfying its own citizens, who are public creditors; and that there does not appear a possibility of making such a private and partial provision, because the various certificates are principally made payable to the bearer of them, and have been transferred and negotiated. A provision for them by any

State must therefore exclude the demands of many of its own citizens, or admit the demands of all.

That the attempts to pay any of the past debts would form so heavy a deduction from the greatest revenue which can be raised, as would totally obstruct all present service. Wherefore, the provision to be made at present, ought to be confined to the interest of the public debts. That such provision would afford eventual relief to the public creditors, and enable them to support their share of the public burthens, without appropriating the whole revenue, which can be drawn from the people, to a payment of debts, and leaving thereby the public service unprovided for, which would involve the ruin of all ranks, whether creditors or others.

That Congress are, and have been long impressed with the absolute necessity, that speedy and effectual measures should be taken; first, to liquidate and ascertain the public debts, and, secondly, to secure the payment of the interest, until the principal could be discharged, as will appear from the following facts:

That for the first of these essential objects, Congress had made provision by their Acts of the 20th and 27th of February last, and have reason to believe, from the information contained in a letter, from the office of Finance, dated the 3d of December following, and the report of a committee thereon (both which are annexed), that the plan adopted will speedily be in an effectual train of execution throughout the United States. That the duty of five per cent. was recommended by Congress so early as the 3d of February, 1781; but after a delay of near two years, Congress have the mortification to find, that one State entirely refuses its concurrence; that another has withdrawn its assent once given, and that a third has returned no answer.

That when Congress received the determination of the State of Rhode Island on that subject, they resolved to send a solemn deputation to that State, to induce a reconsideration of the measure. At the moment when the committee were about to depart, intelligence was received, that Virginia had repealed the act formerly passed on that recommendation, which has placed

the business on a new ground, and compelled Congress to take it up in a more extensive view.

The inability of Congress to perform the engagements taken with the public creditors will readily appear, when it is considered how defective have been the compliances of the States in every period of the war. Without recurring to details previous to the year 1782, it will be sufficient to state the situation of the finances for that year, which is as follows: Congress, by their resolution of the 30th October, 1781, demanded 8,000,000 of dollars for the service of the ensuing year. Without noticing the lesser neglects of their requisition, the annexed account will show, that only 420,031.29-90 have have been received.

The precise account of moneys in Europe cannot be ascertained until the final settlement of the accounts there, because the bills drawn on Spain and Holland, having been finally paid, and made payable in France, the sum in livres of those which remained due at the close of the year 1781, and which had been drawn in guilders and dollars, must depend on the different exchanges between Amsterdam, Madrid, and Paris. But according to the best accounts which can be obtained, the anticipations made in the funds for the year 1782, amounted at the close of 1781, to 4,000,000 of livres. For the service of that year his most Christian Majesty lent the United States 6,000,000 livres. In addition thereto, Mr. Adams opened a loan in Holland for 10,000,000 of livres; but, by the last accounts from him, he had obtained only 3,000,000. So that the whole sum borrowed for the year 1782, being 9,000,000, there remained, after deducting the anticipations, only 5,000,000, which, according to the course of exchange which has prevailed, will amount to 833,333.30-90 dollars.

By the annexed account of the receipts and expenditures for the year 1781, it appears, that there were in the treasury, at the commencement of the year 1782, 292,453.66-90 dollars; so that the whole amount of the sums which Congress have had to carry on the public business for the year 1782, is no more than 1,545,818.30-90 dollars.

From the annexed estimates, it will appear that the pay of

the American army, according to the present reduced establishment, amounts to 3,038,795.32-90 dollars—that the clothing amounts to 1,165,263—that the rations, besides those issuable to prisoners, amount to 1,509,352 = 5,713,610.32-90. So that the three branches of feeding, clothing, and paying the army, on its present establishment, would amount to 5,713,610.32-90, without entering into the other branches of service, or considering the necessity of tents, firing, camp utensils, horses, carriages, forage, military stores, hospitals, and the like.

The incompetency of the revenue will appear from a comparison of it with the sums necessary for feeding and clothing the army, which services alone amount to above 2,500,000 dollars.

And what must place the matter in a still more striking point of view, is, that the whole sum which Congress could command was not sufficient to pay the interest then due on the public debts. Every circumstance, therefore, which has hitherto retarded the measures which Congress have adopted for making provision for the public debt, has increased the necessity of making such provision. And, therefore, notwithstanding the discouraging obstacles they have hitherto encountered, they conceive it a duty to themselves and to their constituents to persevere in their intentions, and to renew and extend their endeavors to procure the establishment of revenues equal to the purpose of funding all the debts of the United States. And they think it proper to inform the Assembly of Pennsylvania, that this subject is now before them under solemn deliberation, and that the ready and early compliance of the Legislature of Pennsylvania with the recommendation of the 3d of February, 1781, assures Congress of the vigorous support of that State.

Among the steps taken by Congress to secure the debts incurred for the common defence, they must not omit to mention the recommendation of the 6th of September, 1780, for a cession of part of the Western territory, claimed by particular States. In consequence thereof, New-York has made a cession, accepted by Congress, the nature of which will appear by the act herewith communicated.

Virginia and Connecticut have also made cessions, the acceptance of which has hitherto been delayed by peculiar circumstances. Other States, claiming Western territory, have not yet complied with the recommendation. Congress cannot help calling the serious attention of the Legislature of Pennsylvania to that subject, which they consider as of importance, not only as it may affect the public credit, but as it will contribute to give general satisfaction to the members of the Union. They intend also to renew their instances with the other States on the same occasion.

VALUATION OF LANDS DEFERRED.

February 6, 1783.

Whereas, the carrying into execution the eighth article of the Confederation, relative to a valuation of land for ascertaining the quotas of each State, towards the general expense, in a manner consistent with justice to all the members of the Union, and with such accuracy as the importance of the subject demands, will necessarily be attended with very considerable expense, to which the present state of the public finances is inadequate; and whereas, in a matter so fundamental in the Confederation, it is essential to the harmony and welfare of the United States that the said article should be carried into effect with great care, circumspection, and impartiality, and a short delay will be much less pernicious than a defective execution; therefore,

Resolved, That Congress are under a necessity of deferring the attempt to a period when the situation of the finances of the United States will admit of the necessary expense for effecting the object with as much precision and equity as possible; and that they will then proceed to such valuation by Commissioners appointed by them, and acting under their authority upon principles uniform throughout the United States.

Resolved, When the valuation is complete, Congress will finally adjust the accounts of the United States with the States

separately, agreeable to that standard, making equitable abatements to such States as have been more immediate sufferers by the war, and in the mean time will adhere, in the temporary adjustment of those accounts, to the proportions established from time to time by the several requisitions of Congress.

Resolved, For the information of Congress, in forming an eventual plan, that those States which have already made valuations of their lands respectively, be requested to transmit to Congress the amount of such valuations, with an explanation of the principles on which they have been made.

PERMANENT AND ADEQUATE FUNDS TO BE COLLECTED BY CONGRESS.

February 12, 1783.

Resolved, That it is the opinion of Congress that complete JUSTICE cannot be done to the creditors of the United States, nor the restoration of PUBLIC CREDIT be effected, nor the future exigencies of the War provided for, but by the establishment of permanent and adequate funds to operate generally throughout the United States, *to be collected by Congress.*

Feb. 20, 1783.

Resolved, That the Commander-in-Chief be informed that Congress, always happy to receive his sentiments on the political and military affairs of these States, the utility of which they have upon so many occasions experienced, have paid all the attention to his letter of the thirtieth of January which the importance of it demands. That should the war continue another campaign, every motive of policy and economy would operate in favor of the enterprise suggested, but that, on the present situation and prospects of these States, it would be inexpedient at this time to

determine upon the plans, or to enter upon the extensive preparations it would require.

That the official accounts received by Congress, corresponding with other intelligence, afford appearances of an approaching peace.

Resolved, That the Secretary of Foreign Affairs be directed to make a confidential communication to the Commander-in-Chief of the state of the Negotiations for Peace, when the last advices were received.

OPEN DEBATE.

1783.

Whereas it is the desire of Congress that the motives of their deliberations and measures (as far as they can be disclosed consistently with the public safety) should be fully known to their constituents,—therefore Resolved, that when the establishment of funds for paying the principal and interest of the public debt shall be under the consideration of this House, the doors shall be opened.

1783.

The Committee to whom were referred certain letters of the Commander-in-Chief, submit the following resolution:

Resolved, That Congress consider the conduct of the Commander-in-Chief on the occasion of some late attempts to create disturbances in the army, as a new proof of his prudence and zealous attention to the welfare of the community; that he be informed that Congress also entertain a high sense of the patriotic sentiments expressed by the officers in their proceedings, which evince their unshaken perseverance in those principles which have distinguished them in every period of the war, and have so justly entitled the troops of the United States to the esteem and gratitude of their country, and to the character of a PATRIOT ARMY.

1783.

Resolved, That a Committee be appointed to consider of the best manner of carrying into execution the engagements of the United States for certain allowances of land to the army at the conclusion of the war.

1783.

Resolved, That the Commander-in-Chief be informed, it is the intention of Congress to effect the settlement of the accounts of the respective lines previous to their reduction, and that Congress are doing, and will continue to do, every thing in their power towards procuring satisfactory securities for what shall be found due on such settlement.

19th March, 1783.

Resolved, That as Congress are desirous of manifesting at all times the most perfect confidence in their ally, the Secretary of Foreign Affairs be directed to communicate to the Minister from the Court of France to these States, the separate article of the Provisional Treaty between the United States and his Britannic Majesty, and that he inform the Commissioners from these States for making peace of the reasons for that communication, repeating to them the desire of Congress that they will upon all occasions maintain perfect harmony and confidence with an ally to whose generous assistance the United States are so signally indebted.

Resolved, That Congress entertain a high sense of the services of their Commissioners for their steady attention to the dignity and essential interests of the United States, and in obtaining from the Court of Great Britain articles so favorable and so important to those interests.

NATIONAL FUNDS.

March 20th, 1783.

Whereas Congress did, on the twelfth day of February last, resolve, that it is the opinion of Congress, that the establishment of adequate and permanent funds, in taxes or duties, which shall operate, generally and on the whole, in just proportions throughout the United States, are indispensably necessary towards doing complete justice to the public creditors for restoring public credit, and for providing for future exigencies of the war; and whereas, it is the duty of Congress, on whose faith the public debts have been contracted for the common safety, to make every effort in their power for the effectual attainment of objects so essential to the honor and welfare of the United States, relying on the wisdom and justice of their constituents for a compliance with this recommendation: Therefore,

Resolved, That it be earnestly recommended to the several States, without delay, to pass laws for the establishment of the following funds, to be vested in the United States, and to be collected and appropriated by their authority. Provided, that the officers for the collection of the said funds shall be inhabitants of each State respectively in which they reside, and being nominated by Congress, shall be approved and appointed by such State, accountable to, and removable by, Congress; and provided that, if after any nomination being reported to the State, the same is not approved or rejected at the next meeting of the legislature, the person or persons so nominated shall be deemed to be duly appointed, viz.:

A duty of five per cent. *ad valorem*, at the time and place of importation, upon all goods, wares, and merchandises of foreign growth and manufacture, which may be imported into any of the said States, from any foreign part, island, or plantation, except

arms, ammunition, clothing, and other articles imported on account of the United States, or any of them, and except wool-cards, cotton-cards, and wire for making them, and also except the articles hereinafter enumerated, the duty on which shall be regulated according to the specified rates thereunto annexed. (Here the duties inserted in the report, to which it was a substitute, were enumerated.)

Also, a duty of five per cent. *ad valorem* on all prizes and prize goods condemned in the Court of Admiralty of any of these States as lawful prize.

A land tax, at the rate of a nineteenth of a dollar for every hundred acres of located and surveyed land; a house tax at the general rate of half a dollar for each dwelling-house (cottages excepted), and at the additional rate of two and a half per cent. on whatever sum the rent of the said house may exceed twenty dollars, to be calculated on the actual rent when the house is rented, and when in the occupancy of the owner, on an appraised rent by commisioners, under oath, appointed by the State once in —— years. The lot and its appurtenances in towns and in the county, the out-houses, and garden and orchard, to be comprehended with the dwelling-house.

The duties on imports to pass to the general benefit of the United States, without credit for the proceeds to any particular State; but the product of the land and house taxes to be credited to each State in which it shall arise. The said funds to continue till the principal of the debt due by the United States, at the termination of the present war, shall be finally discharged.

Resolved, That an estimate be transmitted to each State of the amount of the public debt, as far as the same can be now ascertained, and that Congress will inviolably adhere to their resolutions of the sixteenth day of December last respecting the appropriation of any funds which might be granted, and the annual transmission of the state of the public debt, and the proceeds and disposition of the said funds, by which all doubts and apprehensions respecting the perpetuity of the public debt, may be effectually removed.

NUMBERS—BASIS OF TAXATION.

Passed April 1, 1783.

Resolved, That as a more convenient and certain rule of ascertaining the proportions to be supplied by the States respectively to the common treasury, the following alteration in the articles of confederation and perpetual union between these States be, and the same is hereby agreed to in Congress; and the several States are advised to authorize their respective delegates to subscribe and ratify the same, as part of the said instrument of union, in the words following, to wit:

So much of the 8th of the articles of confederation and perpetual union between the thirteen States of America, as is contained in the words following, to wit, "All charges of war, and all other expenses that shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to or surveyed by any person, as such land, and the buildings and improvements thereon, shall be estimated, according to such mode as the United States in Congress assembled shall, from time to time, direct and appoint," is hereby revoked, and made void; and in place thereof, it is declared and concluded, the same having been agreed to in a Congress of the United States, that all charges of war, and all other expenses that have been, or shall be incurred for the common defence or general welfare, and allowed by the United States in Congress assembled, except so far as shall be otherwise provided for, shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the whole number of white and other free citizens and inhabitants of every age, sex, and condition, including those bound to servitude for a term of years, and three-fifths of all other persons not comprehended in the foregoing description, except Indians not paying taxes, in each State; which number shall be triennially taken and transmitted to the United States in Congress assembled, in such mode as they shall direct and appoint.

DEPARTMENT OF FOREIGN AFFAIRS.

April 2, 1783.

The Committee appointed to consider what arrangements it will be proper to make relatively to peace, submit the following Report on the Department of Foreign Affairs.

Resolved, That the Ordinances and Resolutions heretofore passed relatively to the Department of Foreign Affairs shall continue in force, subject to the alterations and additions following:

That the Secretary for that department shall be considered as the Head of the Diplomatic Corps of the United States; and to remove any doubts which may have existed respecting the nature of the office, it is hereby declared to be his duty from time to time to lay before Congress such plans for conducting the political and commercial intercourse of the United States with foreign nations, as may appear to him conducive to the interests of the said States.

That the said Secretary be entitled to the same allowance for salary and expenses as is hereinafter specified for a minister at a foreign court, and that instead of two Under Secretaries, as by the Resolve of the first of March, 1782, there be appointed under him an Official Secretary, with the same allowance as to a Secretary of Embassy—the said Secretary to be nominated by him.

That each minister shall be allowed eight thousand dollars in lieu of all salary and expenses, except for the postage of letters and the purchase of public prints and papers, which shall be a charge upon the United States.

That the said minister shall be invested with consular powers, and shall accordingly be at the same time Consul General in the country where he resides, having the control and superintendence of all Vice-Consuls, or inferior commercial agents, but shall not be at liberty to engage directly or indirectly in any kind of trade or traffic whatsoever.

That for the more convenient management of the commercial interests of the United States, there be so many Vice-Consuls

appointed to reside in foreign ports with which the trade of the said States may be carried on, as shall from time to time be found necessary, and that the said Vice-Consuls shall have free liberty to trade, but no salary or other emolument, except the usual commissions on such matters as they may be authorized to transact on account of the United States, and reimbursement for contingent and reasonable expenses incurred in their behalf.

That the Secretary for Foreign Affairs prepare and lay before Congress an ordinance conformable to the foregoing principles for regulating the consular powers and privileges, and the plan of a convention be entered into with foreign nations for that purpose.

That whenever Congress shall judge expedient to appoint an Official Secretary to any Embassy, he shall be entitled to a salary of one thousand dollars, and to a place in the house and at the table of the minister with whom he shall reside.

The Committee consider it unnecessary to report concerning the rank of the Secretary for Foreign Affairs relatively to the other heads of the executive departments, as this is an object in another report depending before Congress.

April 7, 1783.

Resolved, That the Secretary at War, in concert with the Commander-in-Chief be and he is hereby directed to consider and report to Congress as speedily as may be such measures as it will be proper to take in the present juncture, for reducing the expenses of the United States in the War Department.

RATIFICATION OF TREATY WITH GREAT BRITAIN.

April 15, 1783.

Resolved, That a Committee be appointed to prepare and lay before Congress a draft of a Ratification of the articles entered

into between the Commissioners of the United States, and the Commissioners of his Britannic Majesty, at Paris, on the 30th day of November last.

Resolved, That the Commander-in-Chief be directed to enter into preparatory arrangements relative to the seventh article of the said Treaty, with the Commander-in-Chief of the British Land and Naval forces in America; and that a committee be appointed to prepare a letter to him on this subject.*

INDIAN AFFAIRS.

April 21, 1783.

Report of a Committee, to whom was committed the letter from his Excellency, the President of the State of Pennsylvania, respecting a peace with the Indians.

Whereas, by the ninth article of the Confederation, the United States in Congress assembled, are vested with the sole and exclusive right and power, among other things, of regulating the trade, and managing all affairs with the Indians, not members of any of the States,

Resolved, That the general superintendence of Indian affairs under Congress, be annexed to the Department of War.

That there be a suspension of offensive hostilities against the Indian nations, and that immediate measures be taken to communicate the same to the several tribes, preparatory to a final pacification.

That there be four agents appointed for the transaction of affairs with the Indians, in the different districts—one for the Eastern district, comprehending all the tribes under the general denomination of the Penobscot Indians; one for the Northern district, comprehending the Six Nations, and the nations depending on them; one for the Western district, comprehending all

* The draft of the Ratification is by Hugh Williamson; corrected in some particulars by Hamilton.

the tribes under the general denomination of the Western Indians; one for the Southern district, comprehending all the Southern Indians; with an allowance, not exceeding dollars per annum, to each agent.

That measures be taken to procure articles proper for presents to the Indians, to the amount of , to be distributed when their deputies shall assemble for the purpose of a treaty of peace. That in order to a speedy pacification till the commissioners aforesaid can be appointed, a special Committee be appointed, instructed to endeavor to engage one or more respectable inhabitants for each district, acquainted with Indian affairs, to undertake the negotiation of an immediate peace; and that the said Committee digest such further measures as it will be proper for Congress to take in reference thereto.

Provided, That the preceding measures of Congress respecting Indian affairs, shall not be construed to affect the territorial claim of any of the States, or their legislative rights within their respective limits.

April 22, 1783.

Ordered, That the Secretary lay before Congress on every Monday, a list of all the Committees which have been appointed at any time before the preceding week, and have not reported; and that such Committees be then called on to state the reasons why they have not reported.

COMMERCIAL TREATY WITH GREAT BRITAIN.

May 1, 1783.

Resolved, That a Commission be prepared to Messrs. Benjamin Franklin, John Adams, and John Jay, authorizing them, or either of them, in the absence of the others, to enter into a Treaty of Commerce between the United States and Great Britain, subject to the revisal of the contracting parties previous to its final

conclusion; and in the mean time, to enter into a Commercial Convention, to continue in force one year.

That the Secretary for Foreign Affairs lay before Congress, without delay, a plan of a Treaty of Commerce, and instructions relative to the same, to be transmitted to the said Commissioners.

CORPS OF INVALIDS.

May 1, 1783.

Resolved, That the Corps of Invalids be reduced. Such officers as have lost a limb, or been equally disabled in service, to retire on full pay for life. Such officers as may not be included in this description, to retire on the same principles, with other officers of the army.

Such non-commissioned officers and soldiers, as being strangers in the country, and, having been disabled in service, are incapable of providing for their own subsistence, and are proper objects for a hospital, to be received into some fixed hospital, to be appropriated for the purpose, and then supplied during life on such provision as may be hereafter determined; to be entitled, in the mean time, to their usual rations, and clothing. And such non-commissioned officers and soldiers, disabled in service, as may have homes to which they can retire, to be discharged on the principles of the Resolutions of the third of April last.

That the Secretary at War be directed to take proper measures, previous to the reduction, to ascertain the different classes above described.

That the officers who shall retire on full pay may, at their option, collectively accept, in lieu of such full pay for life, the amount of years full pay, in the terms of the Resolution of the last.

That at the reduction of this corps, all the officers and men shall receive one month's pay, and shall share in any further pay-

ments which may be made to the other parts of the army, when reduced.

COLLECTION OF TAXES URGED.

May 2, 1783.

Whereas it is the desire of Congress, when the reduction of the army shall take place, to enable the officers and soldiers to return to their respective homes with convenience and satisfaction; for which purpose it will be indispensable to advance them a part of their pay, before they leave the field; and whereas, at the present juncture, there are many other engagements for which the public faith is pledged, and the punctual performance of which, is essential to the credit of the United States; neither of which important objects can be effected without the vigorous exertions of the several States in the collection of taxes; therefore,

Resolved, That the respective States be called upon in the most earnest manner, to make every effort in their power to forward the collection of taxes, that such a sum may, without delay, be paid into the common treasury, as will be adequate to the public exigencies; and that Congress confidently rely upon the disposition of their constituents, not only to do justice to those brave men, who have suffered and sacrificed so much in the cause of their country, and whose distresses must be extreme, should they be sent from the field without the payment of a part of their well-earned dues, but also to enable Congress to maintain the faith and reputation of the United States, both which are seriously concerned, in relieving the necessities of a meritorious army, and fulfilling the public stipulations.

Resolved, That the Superintendent of Finance be directed to take the necessary arrangements for carrying the views of Congress into execution; and that he be assured of their firm support towards fulfilling the engagements he has already taken, or may take, on the public account, during his continuance in office.

FRONTIER POSTS.

May 12, 1783.

Resolved, That the Commander-in-Chief be directed, whenever the frontier posts of these United States shall be evacuated pursuant to the articles of peace, to place therein of the troops under his command, who have enlisted for three years, and whose term of service may not then have expired, such force as he may judge necessary to secure and hold the same, until further measures can be taken for the security of them, or such of them as it may be necessary to support, provided it does not exceed the term of nine months; and that he take measures for exchanging with the British, or transporting artillery, stores, and provisions, that he may judge necessary for that purpose; and the Superintendent of Finance is directed to afford all the assistance in his department which circumstances will permit.

TREATY WITH RUSSIA.

May 21, 1783.

Resolved, That Mr. Dana be informed that the treaties lately entered into for restoring peace, have caused such an alteration in the affairs of these States, as to have removed the primary object of his mission to Russia—the acquisition of new supports to their independence—that though Congress approve the principles of the armed neutrality founded on the liberal basis of a maintenance of the rights of neutral nations, and of the privileges of commerce; yet they are unwilling at this juncture to become a party to a confederacy which may hereafter too far complicate the interests of the United States, with the politics of Europe; and therefore, if such a progress is not yet made in the business as may make it dishonorable to recede, it is their desire that no further measures may be taken at present, towards the admission of the United States into that confederacy.

That with respect to a commercial treaty with Russia, they consider the benefits of it to this country, in any extensive degree, as rather remote, and have therefore, little present inducement to enter into it, besides the desire of cultivating the friendship of that Court and preserving a consistency with the disposition already manifested towards forming a connection therewith, and also of laying the foundation of a future intercourse between the same, when the circumstances of the two countries may be more favorable to the same.

That as experience will enable both nations to form a better judgment hereafter, of the principles upon which that intercourse may be most advantageously conducted, Congress would wish any treaty now formed to be of temporary duration, and limited to a fixed period. That in this view, unless Mr. Dana shall have already formed engagements, or made proposals from which he cannot easily recede, of a more indefinite or extensive nature, before this reaches him, he be instructed to confine the duration of the proposed treaty of commerce to fifteen years, agreeably to the term limited for a similar treaty, with the Court of Sweden; stipulate expressly that the same shall be subject to the revisal of Congress, previous to its final conclusion, and that in all matters, he insist upon exact reciprocity. That so soon as this object be accomplished, or if he discovers any repugnancy on the part of the Court of Russia, to entering into a treaty with these States on liberal principles, he be permitted to return: That with respect to the money mentioned in his letter of the to be employed in presents to the ministers of that Court, he be informed, that as by the Confederation no persons holding offices under the United States are permitted to receive presents from foreign powers, so it is not consistent with the situation or policy of these States, in their transactions with other nations, and that he be instructed to decline paying the same, unless the steps already taken by him towards forming a treaty, or treaties, shall, in his judgment, imply an engagement to make such payment.

DISCHARGE OF ARMY.

May 23, 1783.

The Committee, consisting of Mr. Hamilton, Mr. Peters, and Mr. Gorham, to whom was referred a letter of the 9th from the Superintendent of Finance and Secretary at War, in order to confer with them on the resolutions of the 7th and 28th of April, and 2d inst., report, "That all the non-commissioned officers and soldiers in the service of the United States, enlisted to serve during the war, be discharged; and that the Secretary at War and Commander-in-Chief take the proper measures for doing this, in a manner most convenient to the soldiery and to the inhabitants, having the men previously conducted, under proper officers, to their respective States, and that they be at the same time authorized to retain as many officers as they may judge necessary to command the men who still continue in service, permitting the others to retire.

May 26, 1783.

Resolved, That the Commander-in-Chief be instructed to grant furloughs to the non-commissioned officers and soldiers in the service of the United States, enlisted to serve during the war, who shall be discharged as soon as the definitive treaty of peace is concluded, together with a proportionable number of commissioned officers of the different grades; and that the Secretary at War and Commander-in-Chief take the proper measures for conducting those troops to their respective homes, in such manner as may be most convenient to themselves and to the States through which they may pass; and that the men thus furloughed be allowed to take their arms with them.

DEPORTATION OF NEGROES.

May 26, 1783.

Whereas by the articles agreed upon on the 30th of November last, by and between the Commissioners of the United States of America for making peace, and the Commissioner on the part of his Britannic Majesty, it is stipulated that his Britannic Majesty shall, with all convenient speed, and without causing any destruction, or carrying away any negroes or other property of the American inhabitants, withdraw all his armies, garrisons, and fleets, from the said United States, and from every part, place, and harbor within the same: and whereas a considerable number of negroes belonging to the citizens of these States have been carried off therefrom, contrary to the true intent and meaning of said articles,—Resolved, that copies of the letters between the Commander-in-Chief and Sir Guy Carleton, and other papers on this subject, be transmitted to the Minister Plenipotentiary of these States for negotiating a peace in Europe; and that they be directed to remonstrate thereon to the Court of Great Britain, and take proper measures for obtaining such reparation as the nature of the case will admit. Ordered, that a copy of the foregoing resolve be transmitted to the Commander-in-Chief; and that he be directed to continue his remonstrances to Sir Guy Carleton, respecting the permitting negroes belonging to the citizens of these States to leave New-York, and to insist on the discontinuance of that measure.

ALLOWANCES OF LAND TO ARMY.

May 30, 1783.

The Committee appointed to consider of the best manner of carrying into execution the engagements of the United States for certain allowances of land to the army at the conclusion of the war, submit the following resolution.

Congress having by their Resolution of the promised certain allowances of land to all officers and to such soldiers of the United States engaged to serve during the war, who should continue in service to the end thereof—

Resolved, That till provision can be made by the United States for locating and surveying to the officers and soldiers aforesaid the portions of land to which they are respectfully entitled, certificates be given to them when furloughed or discharged, as evidences of their claim upon the United States, specifying the name of each person, the regiment or corps to which he belongs, his rank therein, and the quantity of land to which he is entitled, the certificates to be signed by the Paymaster General, and to be in the form following.—[*Certificate.*]

FULFILMENT OF TREATY WITH GREAT BRITAIN.

May 30, 1783.

The Committee, consisting of Mr. Hamilton, Mr. Elsworth, Mr. Izard, Mr. Madison, and Mr. Hawkins, appointed to take into consideration and report to Congress what further steps are proper to be taken by them for carrying into effect the stipulations contained in the articles between the United States and Great Britain, dated the 30th day of November last, having reported as follows: Whereas, by the treaty entered into at Paris, on the 30th day of November last, between the Commissioners for making peace on the part of the United States, and the Commissioners for making peace on the part of his Britannic Majesty, it is stipulated among other things in the 4th, 5th, and 6th articles (here recited)—(the first precluding any "lawful impediment to the recovery of the full value in sterling money of all bona fide debts heretofore contracted," the 5th "recommending the restitution of all confiscated estates belonging to real British subjects," and the 6th stipulating that there be "no future confiscations made" of such estates nor "any prosecutions" commenced

or "any damage be suffered by reason of the part taken in the war;")

And whereas Congress are desirous of giving speedy and full effect to all the stipulations in the said treaty on the part of the United States, and of accelerating thereby the blessings of peace, in confidence, that the conduct of his Britannic Majesty will be governed by a like disposition—Therefore, Resolved, That the several states be required, and they are hereby required, to remove all obstructions which may interpose in the way of the entire and faithful execution of the 4th and 6th articles above recited. And that it be at the same time earnestly recommended to them, to take into serious consideration the 5th article, also above recited, and to conform to the several matters therein contained, with that spirit of moderation and liberality, which ought ever to characterize the deliberations and measures of a free and enlightened nation.

June 4, 1783.

Mr. Livingston having signified to Congress his desire of relinquishing the exercise of the office of Foreign Affairs, and his intention of returning to the State of New York,

Resolved unanimously, That the thanks of Congress be presented to Mr. Livingston for his services during his continuance in office, and that he be assured Congress entertain a high sense of the ability, zeal, and fidelity with which he has discharged the important trust reposed in him.

MILITARY PEACE ESTABLISHMENT.

1783.

Before any plan can, with propriety, be determined for a military peace establishment, it is necessary to ascertain what powers exist, for that purpose, in the Confederation.

In the fifth clause of the ninth article, the United States, in Congress assembled, are empowered (without any mention of peace or war) "to build and equip a navy, to agree upon the number of land forces, and to make requisitions from each State for its quota, in proportion to the number of white inhabitants in each State; which requisition shall be binding; and thereupon, the Legislature of each State shall appoint the regimental officers, raise the men, and clothe, arm, and equip them, in a soldier-like manner, at the expense of the United States; and the officers and men, so clothed, armed, and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled."

By the fourth clause in the same article, the United States are empowered "to appoint all officers of the land forces in the service of the United States, excepting regimental officers; to appoint all officers of the naval forces; and to commission all officers whatever, in the service of the United States, making rules for the government and regulation of the said land and naval forces, and directing their operations.

By the fourth clause of the sixth article, it is declared, that "no vessels of war shall be kept up by any State, in time of peace, except such number only, as shall be deemed necessary by the United States, in Congress assembled, for the defence of such State or its trade; nor shall any body of forces be kept up by any State, in time of peace, except such number only, as, in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defence of such State."

The Committee apprehend, that the terms of the last clause, being rather permissive than directory, do not interfere with the positive power vested in the United States by the preceding clauses; and that they have a discretion in the choice of the mode of providing for the general safety in time of peace as well as in time of war.

If this interpretation is just, the Committee are of opinion, there are conclusive reasons in favor of a Continental, in prefer-

ence to separate State establishments; and that, at all events, there must be some Continental establishment.

Firstly. There are objects which cannot fall within the purview of separate State establishments; posts within districts, the jurisdiction and property of which, are covered by opposite and interfering claims, the possession of which, for the security of the western country, is of great importance, and for which, provision cannot, with propriety, be made by any particular State: a tract of territory ceded to the United States by the late treaty with Great Britain, which is not within the original claims of any of the States, the safety of which must depend on Continental provisions; the navigation of the Mississippi, in which all the States are more or less interested, and the security of which ought to be provided for by their joint forces, as well naval as land; the fisheries, the rights respecting which, are in no particular States, but in the Union at large, and therefore call for the protection of the Union; the general commerce of the United States, the rights of which, founded upon the laws of nations, and the treaties of the United States with foreign countries, also claim the joint protection of the Confederacy, and cannot, with propriety, be left to the care of State establishments. A distinction, that, in time of war it is to be protected by the Union, in time of peace by each State, would involve, besides other inconveniences, this capital one: That the United States, when a Federal navy should become necessary to assert the Federal rights, would be obliged to *begin to create*, at the moment they would have occasion to employ, a fleet.

Secondly. The fortifications to be established for the security of the States, ought to be constructed with relation to each other, on some general and well digested plan; and the provisions for their defence, should be made on the same principles. This is equally important in the double view of safety and economy. If this is not done under the direction of the United States, each State following a disjointed and partial plan, it will be found, that the posts will have no mutual dependence or support; that they will be improperly distributed, and more numerous than is necessary, as well as less efficacious. Hence they will be more

easily reduced; and there will be a greater expense, both in the construction and defence.

Thirdly. It happens that, from local circumstances, particular States, if left to take care of their own defence, would be in possession of the chief part of the standing forces, and of the principal fortified places of the Union; a circumstance inconvenient on various accounts. It tends to impose a heavy exclusive burthen on them, in a matter, the benefit of which, will be immediately shared by their neighbors, and, ultimately, by the Union in general. It trusts the care of the safety of the whole to a part, which will naturally be unwilling, as well as unable, to make such effectual provisions, at its particular expense, as the common welfare requires. A single State, from its local situation, will, in a great degree, keep the keys of the United States. A considerable force, in the hands of a few States, may have an unfriendly aspect on the mutual confidence and harmony which ought carefully to be maintained between the whole.

Fourthly. It is probable, that a Continental provision of the forces which will be necessary to be kept up, will be made upon a more systematic and economical plan, than a provision by the States separately; especially, as it will be of great importance that, as soon as the situation of affairs will permit, public manufactories of arms, powder, etc., should be established; and a part of the troops, employed in this way, will furnish those necessary articles to the United States, and defray a considerable part of the expense of supporting themselves.

Fifthly. There must be a corps of Artillery and Engineers, which being a scientific corps, and requiring institutions for the instruction and formation of the officers, cannot exist upon separate establishments without enormous expense.

The Committee, upon these principles, submit the following

PLAN.

The Military Peace Establishment of the United States to consist of four regiments of Infantry, one regiment of Dragoons, one regiment of Artillery incorporated in a corps of Engineers, with the denomination of the Corps of Engineers.

Each regiment of Infantry to consist, when complete, of two battalions; each battalion of four companies; and each company of one hundred and twenty-eight rank and file; with the following commissioned and non-commissioned officers:

One Colonel; two Majors, one to each battalion; eight Captains, one to each company; nineteen Lieutenants, two to each company; or twenty-one Lieutenants, eleven first, and ten second, Lieutenants, including one Paymaster, one Quarter-Master, one Adjutant, and two Ensigns, one Ensign to each battalion; Chaplain; Surgeon, and Mate; two Sergeant-Majors, one to each battalion; two Quarter-Master-Sergeants, one to each battalion; two Drum-and-Fife-Majors, one to each battalion; sixteen drums and fifes, two to each company; thirty-two Sergeants, four to each company; one hundred and twenty-eight Corporals, included in the rank and file; that is, sixteen Corporals, and one hundred and twelve private men to a company.

The regiment of Dragoons to consist, when complete, of two cohorts; each cohort of two squadrons, each squadron of two troops, and each troop of thirty-two dragoons, rank and file, with the following commissioned and non-commissioned officers:

One Colonel; two Majors; eight Captains; nineteen Lieutenants; including Paymaster, Quarter-Master, and Adjutant; Chaplain; one Surgeon and one Mate; two Sergeant-Majors; two Quarter-Master-Sergeants; two Trumpet-Majors; eight Trumpeters; eight Farriers; sixteen Saddlers; two Riding-Masters; thirty-two Sergeants; sixty-four Corporals, included in the rank and file; that is, to each troop, eight Corporals and twenty-four private dragoons.

The corps of Engineers to be composed as follows:

One Major or Brigadier-General commandant; one Colonel; two Lieutenant-Colonels; two Majors; twenty Captains; forty-five Lieutenants (including Paymaster, Quarter-Master, and Adjutant), twenty first, and twenty-three second, Lieutenants; Chaplain, Surgeon, and two Mates; one Professor of Mathematics; one Professor of Chemistry; Professor of Natural Philosophy; Professor of Civil Architecture; two Sergeant-Majors; two Quarter-Master-Sergeants; two Drum-and-Fife-Majors; twenty drums and fifes; forty Sergeants; thirty-two Bombardiers; eight Corporals of Sappers and Miners; three hundred and eighty-four matrosses; ninety-six Sappers and Miners; one hundred and eighty-eight artificers of different kinds, to be distributed in the following manner:

Two battalions of Artillery, each consisting of four companies, commanded by a field officer; each company consisting of one Captain, four Lieutenants, four Sergeants, four Bombardiers, and forty-eight matrosses.

Two companies of sappers and miners; each company consisting of one Captain, four Lieutenants, four Sergeants, and forty-eight sappers and miners.

. . . . . .

A corps of Artificers, commanded by one Captain of the corps, and consisting of,

Artificers of the First Class.

	Pay per month.
One Master-Founder in Brass,	$60
One Master-Founder in Iron,	60
One Master-Armorer,	50
One Master-Cutler,	50
One Master-Blacksmith,	50
One Master-Carpenter,	50
One Master-Wheelwright,	50
One Master-Mason,	50
One Master-Saddler,	50
One Master-Manufacturer of Cartridge-boxes, Scabbards, &c.	50
One Master-Engraver,	60

Of the Second Class.

Four Founders in Brass and Iron; four Armorers; two Cutlers; two Blacksmiths; two Carpenters; two Wheelwrights; two Masons; two Saddlers; two Manufacturers of Cartridge-boxes, &c.

Of the Third Class.

Four Founders in Brass and Iron; twenty Armorers: twelve Cutlers; [Powder-makers?] thirty Blacksmiths; thirty Carpenters; twenty Wheelwrights; twelve Masons; six Saddlers; six Manufacturers of Cartridge-boxes, &c.; two Turners; two Tinmen; two Brickmakers; two Potters; one Glazier; two Cabinet-makers; one Locksmith; one Spur-maker; one Tanner; one Currier.

That the pay of a regiment of Infantry shall be as follows:

	Per month.
To a Colonel,	$100
Major,	65
Captain,	50
Lieutenant,	25
Ensign,	20
Paymaster, besides his pay as Lieutenant,	15
Quartermaster, do. do.	15
Adjutant, do. do.	15
Chaplain,	50
Surgeon,	50
Mate,	25
Sergeant-Major and Quartermaster-Sergeant, each,	8
Drum-and-fife-Major,	8
Drum and fife,	2
Sergeant,	5
Corporal,	3
Private,	2

The pay of a regiment of Dragoons, as follows:

	Per month.
Field Officers as Infantry.	
Captain, { being obliged to find their own }	$60
Lieutenant, { horses, }	35
Quartermaster, Paymaster, Adjutant, as Infantry,	40
Second Lieutenants,	30
Chaplain, Surgeon, and Mates, as in the Infantry.	
Sergeant-Majors, Quartermaster-Sergeants, do.	
Trumpet-Major,	8
Trumpeter,	2
Farrier,	8
Saddler,	8
Riding-Master,	10
Sergeants, Corporals, and private Dragoons, as in the Infantry.	

The pay of the corps of Artillery and Engineers, to be as follows:

	Per month.
Commandant according to his rank.	
To a Colonel,	$110
Lieutenant-Colonel,	80
Major,	70
Captain,	60
Lieutenant,	30
Paymaster, Quartermaster, Adjutant, { including pay as Lieutenants; first Lieutenants, $30, second Lieutenants, $25. } each,	45
Chaplain, Surgeon, and Mates, as in Infantry.	
Professors, each,	80
Sergeant-Major, Quartermaster-Sergeant, each,	8
Drum-and-fife-Majors,	8
Drums and fifes,	3
Sergeant,	6
Bombardier,	4
Corporal,	4
Matross, or Private of sappers or miners,	3
Artificers as annexed to them.	

That a ration of provisions shall consist of one pound of bread, or flour; half a pound of salt, or three-fourths of a pound of fresh, beef or pork; a pint of peas, or other vegetables equivalent; one gill of vinegar, and half a gill of salt.

Each officer and soldier to be entitled to draw one ration per day; the officer at his option to receive the estimated value in money; and the soldier to be paid at the rates annexed to each article, for whatever it may not be possible to furnish him.

That there be an allowance of soap per to each commissioned officer; and to every non-commissioned officer and soldier.

The allowance of forage to officers whose duty is to be performed on horseback, shall be as follows:

To a Major-General, four rations; Brigadier, three; Field officers of every corps, each, two; Chaplain, Surgeon, Quartermaster, Paymaster, Adjutant, of every corps, each, one; Captains, and other officers of Dragoons, each, one; Captains of Engineers, each, one.

A ration of forage to consist of the following articles:

. . . . .

When officers are absent from their corps on duty, and cannot draw forage, they shall be paid for it at the rate of for each ration. . .

That the allowance of clothing to each non-commissioned officer, and private soldier, shall be as follows:

One cloth coat, jacket, and overall, every second year; one hat, one linen frock, three shirts, three pair overalls, six pair shoes, two leather stocks, annually; one blanket every year. And if it shall be found necessary to supply any non-commissioned officer or soldier, with any articles beyond the quantity above specified, the value thereof shall be deducted from his pay, according to the rates annexed to each.

. . . . . .

If the idea of the Confederation is adhered to, the number of troops to be raised must be distributed in the best manner the nature of the case will admit, to the several States, according to the proportion of their respective populations; and each must appoint regimental officers in proportion to the number of men it furnishes; but as no State will have to furnish a complete regiment, this apportionment of the officers, especially, will become extremely difficult, if not impracticable, on any satisfactory plan: and the filling up vacancies as they arise, will produce endless perplexity. It would be much to be preferred, if the States could be induced to transfer this right to Congress; and indeed, without it, there can never be regularity in the military system. It would also be much the best, that the men should be enlisted under Continental direction; which will be a more certain and more economical mode: for as it now stands, the United States are obliged to pay for all mismanagement or extravagance which may happen.

The next object to be attended to, is that of fortifications. These are of two kinds, land and naval: the first for internal

security, the last for the protection of the future fleets of the United States.

As to the first kind, there are many posts of importance already existing, several of which it will be essential to occupy and guard, till more permanent measures can be taken on a general plan. For this, Congress have already made provision by their resolution of the

The Committee are of opinion, that the principles laid down in the memorial from Major-General Du Portail, Chief Engineer, accompanying this report, so far as they respect the article of fortifications, are, in general, sound and just; and that it will be expedient for Congress, as soon as they have determined on the establishment of the corps of Engineers, to instruct the head of that corps to make a general survey of the points necessary to be fortified, and to lay a general plan before Congress for their consideration.

With respect to maritime fortifications, the Committee are of opinion, that this object, though of the highest importance, cannot be immediately undertaken; but that it will be advisable for Congress to appoint an Agent of Marine, to make all the inquiries, obtain all the lights, and prepare, in proportion as the public finances will admit, all the means previously requisite towards the establishment of posts, and the formation of a navy.

The Committee apprehend, that even if the resources of the Unitted States were at this time equal to the undertaking of constructing and equipping a navy, it would be ineligible to enter upon it, till a plan, deliberately combined in all its parts, had been digested and approved for that purpose. As the preparatory steps will require a considerable length of time before such a plan could be matured for execution, it will, therefore, be proper, in the judgment of the Committee, to make the appointment suggested, as speedily as it can conveniently be done.

The Committee are further of opinion, that it will be proper for Congress to keep constantly on foot, magazines and arsenals, n different parts of the United States, equal to the complete equipment of twenty thousand men, in every thing necessary for the field or for a siege, calculating on a three years' supply; and

that, in this view, it will be expedient to establish arsenals and magazines at the following places:
and to deposit all the artillery and military stores, in possession of the United States, in those several places, in equal proportions; and as soon as may be, to make up any deficiencies which may be found in the quantity proposed; so that each deposit may suffice for five thousand men.

With respect to the establishment of military academies, as proposed in the letter of the

by the Secretary at War, the Committee are of opinion, that the benefits of such institutions rarely compensate for the expense; and that, by having the three professors proposed to be attached to the corps of Engineers, all the utility to be expected from academies, may be substantially obtained: that, at all events, such institutions can only be the object of future consideration.

The Committee are of opinion, that as soon as the situation of public affairs will permit, it ought to be made a serious object of policy, to be able to supply ourselves with all the articles of first necessity in war; and in this view, to establish foundries, manufactories of arms, powder, etc.

There are two reasons which appear to them conclusive for this. The first is, that every country ought to have within itself all the essential means of defence; for, to depend on foreign supplies, is to render its security precarious: the second, that as it will be indispensable to keep up a corps of Artillery, and some other troops, the labor of a part of these, bestowed upon the manufactories, will enable the public to supply itself on better terms than by importation. The Committee propose that the Secretary at War be directed to lay before Congress a plan, in detail, for this purpose; designating the places where those foundries and manufactories can be erected with advantage, the means to be employed, and the expense to be incurred in the execution of the plan.

The Committee are of opinion, that a general staff is unnecessary in time of peace, as all the objects of it may be answered by the War Department, by the regimental officers, and by con-

tracts. They would only recommend to have a Major-General to command all the troops; a General officer to command the corps of Engineers and Artillery; and an Inspector-General to preserve uniformity in the regulations and service of the troops.

The pay of these officers may be:

To a Major-General, per month, ... $
To a Brigadier-General, ... $
Inspector-General, including the pay of his rank, . . $

In time of war, it will be necessary to appoint a Brigadier-General to each brigade consisting of two regiments of Infantry; but during peace, as the service of the regiments will be detached, this may be dispensed with.

It will be necessary to establish a General Hospital for the reception of invalids of the army and navy. For the present, only the following officers will be requisite:

	Pay and subsistence per month.
One Physician and Director, who shall also have the superintendence of the regimental hospitals,	$80
One Purveyor and Apothecary, ...	50
One Surgeon, ...	50
One Mate, ...	25
One Steward, ...	15
One Matron, ...	8
Four Nurses, each, ...	5

To be entitled to draw a ration per day each, and no other subsistence or allowance.

The invalids to be allowed no pay; but the clothing and rations specified for soldiers during life.

The gross expense of this establishment, if complete, as will appear by the annexed estimate, will be $

From this may be deducted the value of the product of the manufactories, when established by the estimate also annexed,

Balance, an annual charge upon the United States, $

If Congress should think it inexpedient immediately to incur so considerable an expense, the following method may be taken to diminish it.

The companies of Infantry may, for the present, be recruited only to sixty-four men each.

Only four troops of the Dragoons may be raised, and only one troop mounted. It would be inexpedient to neglect this

arm altogether; for it will always, in case of war, be of great importance in the southern States; and the knowledge of its principles and uses ought to be cultivated.

The companies of Sappers and Miners, and the company of Artificers, except the Master-Founders and the Armorers, may be deferred till the means of the United States will admit of carrying into execution the plan of foundries and manufactories.

Yet it would be proper that these establishments should be adopted as proposed; and the execution, in these instances, suspended.

The savings of expense, by these deductions, would amount to ; which, taken out of the aggregate expense of the whole establishment, will leave a residue of annual expense, of

The Committee are of opinion, that this expense is unavoidable; and that the only question is, whether it shall be borne by the United States or by particular States: in which last case, it is probable it will be greatly increased, for want of being conducted on a systematic plan: and it is to be observed, that the resources of the States, jointly or severally, are confined within certain bounds; and that if any States contribute an extra proportion in one way, they must contribute less than their proportion in another. The superior national considerations already stated, leave no doubt as to the manner in which the question ought to be decided.

The Committee are also of opinion, that in considering the means of national defence, Congress ought not to overlook that of a well regulated militia; that as the keeping up of such a militia, and proper arsenals and magazines, by each State, is made a part of the Confederation, the attention of Congress to this object will be a constitutional duty; that as great advantages would result from uniformity in this article, in every State, and from the militia establishment being as similar as the nature of the case will admit, to the Continental military establishment, it will be proper for Congress to adopt and recommend a general plan for that purpose.

The Committee submit the following outlines of such a

plan; which may, if thought necessary, be digested and improved.

All the free male inhabitants in each State, from twenty years old to fifty, except such as the laws of each State shall think it proper to exempt, to be divided into two general classes; one class consisting of married, the other class consisting of single, men.

Each class to be formed into corps of Infantry and Dragoons, organized in the same manner as has been proposed for the Continental troops.

Those who are willing to be at the expense of equipping themselves for the Dragoon service, to be permitted to enter into that corps. The residue to be formed into Infantry. This will consult the convenience and inclinations of different classes of citizens.

Each officer and private of the Dragoons, to provide himself with a horse, saddle, etc., pistols and sabre; and each non-commissioned officer and private, with a carbine and cartouch box, with twelve rounds for his carbine, and six rounds for each pistol.

Each officer of the Infantry to have a sword and *esponton;* and each non-commissioned officer and private, a musket, bayonet, and cartouch-box containing always twelve rounds of powder and ball.

That the corps of single men be obliged to assemble in companies once a month; and once in three months regimentally, to be inspected and exercised, subject to a penalty to be assigned for that purpose.

That the corps of married men be obliged to assemble once in three months by companies; and once in six months regimentally, for the same purposes as above-mentioned.

That when the State is invaded, the corps of either class, indifferently, shall be obliged to take the field for its defence, and to remain in service one year, unless sooner relieved by special order.

That when another State is attacked, and it is necessary to march to its succor, one-half of the corps of single men shall be

obliged to take their turn first, and to serve for the same period; to be afterwards relieved by one-half of the corps of the married men; and so on alternately.

That in addition to these two classes, there shall be a third class, under a particular denomination, as fencibles, fusiliers, train-bands, or whatever else may be judged expedient; with the same organization as the other classes, but composed in the following manner:

Of all such of either of the two other classes as will voluntarily engage to serve for the term of eight years, provided they shall not exceed the proportion of one to fifty of all the enrolled militia of the State; and provided, that, if a war breaks out, they shall be bound to serve three years after they are called into service, and to march wherever the service may require.

The conditions on the part of the public to be these: That they shall be furnished with a musket, bayonet, cartouch box, and twenty-four rounds of powder and ball; and once every two years with a suit of uniform, to consist of a coat, jacket, and overall of cloth; the arms and accoutrements to become their property at the end of their time of service.

These corps to be obliged to assemble, by companies, once a week; and by regiments monthly, for exercise and inspection; and to encamp at a general rendezvous twenty days in each year, to be paid at the rate of six pence per day to each non-commissioned officer and private. Whenever any of the militia are called into service, they shall be entitled to the same emoluments with the regular troops.

The Committee are of opinion, that, with a view to these establishments, it will be proper to direct the Commander-in-Chief to appoint a Board, consisting of not more than five officers, of which the Inspector-General, Commandant of Artillery, and Chief Engineer, to be members, to revise the system of regulations for the army of the United States; and to digest, for the consideration of Congress, a General Ordinance for the service of the troops of the United States, as well the corps of Engineers and of Horse, as of Infantry: also an ordinance to be recommended to the several States for the service of the militia.

All promotions to be made regimentally to the rank of Colonel, according to seniority; and from the rank of Colonel upwards, the officers of Dragoons and Infantry, shall roll together, and be promoted according to seniority, without distinction of corps.

The rule of promotion in the corps of Engineers, to be, in all respects, distinct, and according to seniority in that corps.

Provided, that no officer, of whatsoever corps, shall consider it as a violation of his rights, if any other, who has been fortunate enough to have an opportunity of distinguishing himself in a particular manner, receives an extra promotion in the corps, on account of brilliant services or peculiar talents.

And in order that such extra promotion may not be produced by misrepresentation, it shall not be made, but on the recommendation of the Commander of the army, accompanied by an authenticated state of the facts and reasons upon which the recommendation is founded; together with the opinion of the officer commanding the corps in which the promotion is to be made: all which shall be reported to Congress by the Secretary at War, with his sentiments thereupon.

The officers to command the different corps in the first instance, to be appointed out of such of those, now in service, as are willing to continue in the military line: provided, that those who are retained, shall not be entitled to the half pay for their services during the war.

The men to be enlisted for six years.

Women to each company.

Notes to be recollected.

An absurdity, that Congress are empowered to build and equip a navy; and yet, in time of peace, the States are to keep up one for their own defence.

There must be a navy formed in time of peace: it ought to be proportioned to our defence; and will then be all in the hands of certain States.

Congress, constituted as they are, can't have time for usurpation. Usurpation in such an extensive empire requires long previous preparation, etc.

A people seldom reform with moderation. Men, accustomed to read of usurpation suddenly effected in small cities, look upon such a thing as a work of a day.

The weak side of democracies, is danger of foreign corruption. No individual has sufficient interest in the State, to be proof against the seduction.

The want of an army lost the liberty of Athens—vide Demosthenes.

June 19th, 1783.

Resolved, That copies of the letter from the Commander-in-Chief, of the seventh instant, with its inclosures, be transmitted to the several States, for their information, and that their attention be recalled to the resolution of the second of May last, to facilitate the punctual payment of the notes issued to the army, on account of their pay. That the Commander-in-Chief be informed Congress approve the variation made by him in the manner of furloughing the troops.

June 21st, 1783.

Resolved,* That the president and supreme executive council of Pennsylvania be informed, that the authority of the United States having been this day grossly insulted by the disorderly and menacing appearance of a body of armed soldiers about the place within which Congress were assembled, and the peace of this city being endangered by the mutinous disposition of the said troops now in the barracks, it is, in the opinion of Congress, necessary that effectual measures be immediately taken for supporting the public authority.

Resolved, That the committee, on a letter from Colonel Butler, be directed to confer, without loss of time, with the supreme executive council of Pennsylvania, on the practicability of carrying the preceding resolution into effect; and that, in case it shall appear to the committee that there is not a satisfactory ground for expecting

* See Works, vol. i. pp. 374, 393, 395, 409.

adequate and prompt exertions of this State, for supporting the dignity of the Federal Government, the President, on the advice of the committee, be authorized to summon the members of Congress to meet on Thursday next, at Trenton or Princeton, in New Jersey, in order that further and more effectual measures may be taken for suppressing the present revolt, and maintaining the dignity and authority of the United States.

Resolved, That the Secretary at War be directed to communicate to the Commander-in-Chief the state and disposition of the said troops, in order that he may take immediate measures to dispatch to this city such force as he may judge expedient for suppressing any disturbances that may ensue.

RESOLUTIONS FOR A GENERAL CONVENTION.

June 30th, 1783.

Whereas, in the opinion of this Congress, the Confederation of the United States is defective in the following essential points, to wit:

Firstly, and generally: In confining the power of the Federal Government within too narrow limits; withholding from it that efficacious authority and influence, in all matters of general concern, which are indispensable to the harmony and welfare of the whole; embarrassing general provisions by unnecessary details, and inconvenient exceptions, incompatible with their nature, tending only to create jealousies and disputes respecting the proper bounds of the authority of the United States, and of that of the particular States, and a mutual interference of the one with the other.

Secondly: In confounding legislative and executive powers in a single body; as, that of determining on the number and quantity of force, land and naval, to be employed for the common defence, and of directing their operations when raised and equipped, with that of ascertaining and making requisitions for

the necessary sums, or quantities, of money to be paid by the respective States into the common treasury; contrary to the most approved and well-founded maxims of free government, which require, that the legislative, executive, and judicial authorities, should be deposited in distinct and separate hands.

Thirdly: In want of a Federal Judicature, having cognizance of all matters of general concern in the last resort; especially those in which foreign nations, and their subjects, are interested: from which defect, by the interference of the local regulations of particular States militating, directly or indirectly, against the powers vested in the Union, the national treaties will be liable to be infringed, the national faith to be violated, and the public tranquillity to be disturbed.

Fourthly: In vesting the United States in Congress assembled, with the *power of general taxation*, comprehended in that of "ascertaining the necessary sums of money to be raised for the common defence, and of appropriating and applying the same, for defraying the public expenses;" and yet, rendering that power, so essential to the existence of the Union, nugatory, by withholding from them all control over either the imposition or the collection of the taxes for raising the sums required: whence it happens, that the inclinations, not the abilities, of the respective States, are, in fact, the criterion of their contributions to the common expense; and the public burthen has fallen, and will continue to fall, with very unequal weight.

Fifthly: In fixing a rule for determining the proportion of each State towards the common expense, which, if practicable at all, must, in the execution, be attended with great expense, inequality, uncertainty, and difficulty.

Sixthly: In authorizing Congress "to borrow money, or emit bills, on the credit of the United States," without the power of establishing funds to secure the repayment of the money borrowed, or the redemption of the bills emitted; from which must result one of these evils: Either a want of sufficient credit, in the first instance, to borrow, or to circulate the bills emitted, whereby, in great national exigencies, the public safety may be endangered; or, in the second instance, frequent infractions of

the public engagements, disappointments to lenders, repetitions of the calamities of depreciating paper, a continuance of the injustice and mischiefs of an unfunded debt, and, first or last, the annihilation of public credit.

Indeed, in authorizing Congress at all, to emit an *unfunded* paper as the sign of value, a resource, which, though useful in the infancy of this country, indispensable in the commencement of the revolution, ought not to continue a formal part of the Constitution, nor ever, hereafter, to be employed, being, in its nature, pregnant with abuses, and liable to be made the engine of imposition and fraud; holding out temptations equally pernicious to the integrity of Government and to the morals of the people.

Seventhly: In not making proper or competent provisions for interior or exterior defence: For interior defence, by leaving it to the individual States to appoint all regimental officers of the land forces; to raise the men in their own way; to clothe, arm, and equip them at the expense of the United States: from which circumstances, have resulted, and will hereafter result, great confusion in the military department; continual disputes of rank; languid and disproportionate levies of men; an enormous increase of expense, for want of system and uniformity in the manner of conducting them, and from the competitions of State bounties:—by an ambiguity in the fourth clause of the sixth article, susceptible of a construction which would devolve upon the particular States in time of peace, the care of their own defence, both by sea and land, and would preclude the United States from raising a single regiment, or building a single ship, before a declaration of war, or an actual commencement of hostilities; a principle dangerous to the Confederacy in different respects, by leaving the United States at all times unprepared for the defence of their common rights; obliging them to begin to raise an army, and to build and equip a navy, at the moment they would have occasion to employ them; and by putting into the hands of a few States, who, from their local situations, are more immediately exposed, all the standing forces of the country; thereby, not only leaving the care of the safety of the

whole to a part, which will naturally be both unwilling and unable to make effectual provision at its particular expense, but also furnishing grounds of jealousy and distrust between the States; unjust, in its operation, to those States in whose hands they are, by throwing the exclusive burthen of maintaining those forces upon them, while their neighbors, immediately, and all the States, ultimately, would share the benefits of their services.

For exterior defence, in authorizing Congress to "build and equip a navy," without providing any means of manning it, either by requisitions of the States, by the power of registering and draughting the seamen in rotation, or, by embargoes in cases of emergency, to induce them to accept employment on board the ships of war: the omission of all of which, leaves no other resource than voluntary enlistment; a resource which has been found ineffectual in every country, and, for reasons of peculiar force, in this.

Eighthly: In not vesting in the United States, a general superintendence of trade; equally necessary in the view of revenue and regulation: Of revenue, because duties on commerce, when moderate, are one of the most agreeable and productive species of it; which cannot, without great disadvantages, be imposed by particular States, while others refrain from doing it, but must be imposed in concert, and by laws operating upon the same principles, at the same moment, in all the States: otherwise, those States which should not impose them, would engross the commerce of such of their neighbors as did: Of regulation, because, by general prohibitions of particular articles, by a judicious arrangement of duties, sometimes by bounties on the manufacture or exportation of certain commodities, injurious branches of commerce might be discouraged; favorable branches encouraged; useful products and manufactures promoted: none of which advantages, can be as effectually attained by separate regulations, without a general superintending power: because, also, it is essential to the due observance of the commercial stipulations of the United States with foreign powers; an interference with which, will be unavoidable, if the different States have the exclusive regulation of their own trade, and, of course, the construction of the treaties entered into.

Ninthly: In defeating essential powers by provisions and limitations inconsistent with their nature; as, the power of making treaties with foreign nations; "provided that no treaty of commerce shall be made, whereby the legislative power of the respective States shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or, from prohibiting the importation or exportation of any species of goods or commodities whatsoever;" a proviso, susceptible of an interpretation which includes a constitutional possibility of defeating the treaties of commerce entered into by the United States: As also the power "of regulating the trade and managing all affairs with the Indians, not members of any of the States; *provided* that the legislative right of any State, within its own limits, be not infringed or violated;" and others of a similar nature.

Tenthly: In granting the United States the sole power "of regulating the alloy and value of coin struck by their own authority, or by that of the respective States," without the power of regulating the foreign coin in circulation; though the one is essential to the due exercise of the other, as there ought to be such proportions maintained, between the national and foreign coin, as will give the former a preference in all internal negotiations; and without the latter power, the operations of government, in a matter of primary importance to the commerce and finances of the United States, will be exposed to numberless obstructions.

Eleventhly: In requiring the assent of *nine* States to matters of principal importance, and of seven to all others, except adjournments from day to day; a rule, destructive of vigor, consistency, or expedition in the administration of affairs; tending to subject the *sense* of the majority to *that* of the minority, by putting it in the power of a small combination to retard, and even to frustrate, the most necessary measures; and to oblige the greater number, in cases which require speedy determinations, as happens in the most interesting concerns of the community, to come into the views of the smaller; the evils of which, have been felt in critical conjunctures, and must always

make the spirit of government, a spirit of compromise and expedient, rather than of system and energy.

Twelfthly: In vesting in the Federal Government, the sole direction of the interests of the United States, in their intercourse with foreign nations, without empowering it to pass all general laws in aid and support of the laws of nations: for the want of which authority, the faith of the United States may be broken, their reputation sullied, and their peace interrupted by the negligence or misconception of any particular State.

And whereas, experience hath clearly manifested, that the powers reserved to the Union, in the Confederation, are unequal to the purpose of effectually drawing forth the resources of the respective members, for the common welfare and defence: whereby the United States have, upon several occasions, been exposed to the most critical and alarming situations; have wanted an army adequate to their defence, and proportioned to the abilities of the country; have, on account of that deficiency, seen essential posts reduced, others eminently endangered, whole States, and large parts of others, overrun and ravaged by small bodies of the enemy's forces; have been destitute of sufficient means of feeding, clothing, paying, and appointing that army; by which the troops, rendered less efficient for military operations, have been exposed to sufferings, which nothing but unparalleled patience, perseverance, and patriotism, could have endured; whereby, also, the United States have been too often compelled to make the administration of their affairs a succession of temporary expedients, inconsistent with order, economy, energy, or a scrupulous adherence to the public engagements; and now find themselves, at the close of a glorious struggle for independence, without any certain means of doing justice to those who have been its principal supporters; to an army which has bravely fought and patiently suffered; to citizens who have cheerfully lent their money, and to others who have, in different ways, contributed their property and their personal service to the common cause; obliged to rely, for the only effectual mode of doing that justice, by funding the debt on solid securities, on the precarious concurrence of thirteen distinct deliberatives, the dissent

of either of which, may defeat the plan, and leave these States, at this early period of their existence, involved in all the disgrace and mischiefs of violated faith and national bankruptcy.

And whereas, notwithstanding we have, by the blessing of Providence, so far happily escaped the complicated dangers of such a situation, and now see the object of our wishes secured by an honorable peace, it would be unwise to hazard a repetition of the same dangers and embarrassments in any future war in which these States may be engaged, or to continue this extensive empire under a government unequal to its protection and prosperity.

And whereas, it is essential to the happiness and security of these States, that their union should be established on the most solid foundations: and it is manifest that this desirable object cannot be effected but by a government capable, both in peace and war, of making every member of the Union contribute, in just proportion, to the common necessities, and of combining and directing the forces and wills of the several parts to a general end; to which purposes, in the opinion of Congress, the present Confederation is altogether inadequate.

And whereas, on the spirit which may direct the councils and measures of these States, at the present juncture, may depend their future safety and welfare; Congress conceive it to be their duty, freely to state to their constituents, the defects which, by experience, have been discovered in the present plan of the Federal Union, and solemnly to call their attention to a revisal and amendment of the same.

Therefore, *Resolved*, That it be earnestly recommended to the several States, to appoint a Convention, to meet at , on the day of , with full powers to revise the Confederation, and to adopt and propose such alterations as to them shall appear necessary; to be finally approved or rejected by the States respectively; and that a Committee of be appointed to prepare an address upon the subject.

July 1, 1783.

Resolved, That Major General Howe be directed to march such part of the force under his command as he shall judge ne-necessary, to the State of Pennsylvania, in order that immediate measures may be taken to confine and bring to trial all such persons belonging to the army as have been principally active in the late meeting, to disarm the remainder, and to examine fully into all the circumstances relating thereto.

That in the exercise of the foregoing resolution, if any matters shall arise which may concern the civil jurisdiction, or in which its aid may be necessary, application be made for the same to the executive authorities of the State.

July 1, 1783.

The Committee, consisting of Mr. Hamilton, Mr. Ellsworth, and Mr. Peters, to whom were referred a letter of the 17th of June, from Col. R. Butler, at Lancaster, and sundry papers communicated to Congress by the Executive Council of Pennsylvania, through their delegates, having, on the 19th of June, made a verbal report, and on the 20th of the same month, a report in writing, and the written report being on the 30th recommitted, that they might amend it by adding thereto their verbal report, and the report being this day brought in with the said amendment, ordered that it be entered on the journal.

Report.

The Committee, to whom were referred the letters and papers communicated to Congress by the Executive Council of Pennsylvania, through their delegates, report: That they had a conference yesterday, as directed, with the Supreme Executive Council, in which, in the first instance, the propriety of calling out a detachment of militia to intercept the mutineers on their march from Lancaster, was proposed to the Council, suggesting the danger of their being suffered with impunity to join the troops in

the barracks, who a few days before had manifested a dangerous spirit by an insolent and threatening message sent to Congress in the name of a board of sergeants, and who, it was apprehended, would be ready to make common cause with those on their march for mutinous purposes: that the Council, having shown a reluctance to call out any part of the militia, expressing an opinion that they would not be willing to act till some outrage should have been committed by the troops, there appeared to the committee no alternative but to endeavor to dissuade the mutineers from coming to town; and, if they failed in that attempt, to make use of expedients to prevent the troops in the barracks from joining in any excesses, and to induce the detachment from Lancaster to return to that place: that, in this view, and at their desire, the Assistant Secretary at War met the detachment then on its march to the city, and endeavored to engage them to return to the former place, urging the considerations contained in the annexed instructions within; but the said detachment persisted in their intention of coming to this city, and arrived here this morning: that upon conferring with the Superintendent of Finance, they find there is a probability that the Paymaster General, to whom the settlement of the accounts of the army has been committed, and who, having all the documents in his possession, can alone execute the business with propriety, will shortly arrive from the army, and will immediately enter upon a settlement with the troops in this State: that, in the mean time, measures will be taken to prepare the business for a future adjustment: that there will immediately be sent to Lancaster a sum of money to be paid to the troops on account of the month's pay heretofore described to be advanced to them, the payment of which has hitherto been delayed by particular circumstances, together with notes for three months' pay, intended to be advanced to the men when furloughed: that they have desired this information to be transmitted to the commanding officer here and at Lancaster, with this declaration, that the corps stationed at Lancaster, including the detachment, can only be settled with or paid at that place.

Instructions to Major Jackson.

SIR:

Information having been received that a detachment of about eighty mutineers are on their way from Lancaster to this place, you will please to proceed to meet them, and to endeavor, by every prudent method, to engage them to return to the post they have left. You will inform them of the orders that have been given, permitting them to remain in service till their accounts shall have been settled, if they prefer it to being furloughed, and of the allowance of pay which has been made to the army at large, and in which they are to be included. You will represent to them that their accounts cannot be settled without their officers, whom they have left behind them at Lancaster. You will represent to them with coolness but energy, the impropriety of such irregular proceedings, and the danger they will run by persisting in an improper conduct. You will assure them of the best intentions in Congress to do them justice, and of the absurdity of their expecting to procure it more effectually by intemperate proceedings. You will point out to them the tendency which such proceedings may have to raise the resentments of their country, and to indispose it to take effectual measures for their relief. In short, you will urge every consideration in your power to induce them to return, at the same time avoiding whatever may tend to irritate. If they persist in coming to town, you will give the earliest notice to us of their progress and disposition. Should they want provisions, you will assure them of a supply, if they will remain where they are, which you are to endeavor to persuade them to do, in preference to coming to town.

I am, Sir,

Your most obedient servant,

A. HAMILTON,

In behalf of the Committee.

Philadelphia, June 19, 1783.

The Committee, consisting of Mr. Hamilton and Mr. Ellsworth, appointed on the 21st of June, to confer with the Supreme Executive Council of Pennsylvania, on the practicability of taking

effectual measures to support the public authority, having delivered in a report, ordered that it be entered in the journal.

Report.

The Committee appointed to confer with the Supreme Executive Council of Pennsylvania, on the practicability of taking effectual measures to support the public authority, in consequence of the disorderly and menacing appearance of a body of armed soldiers surrounding the place where Congress were assembled on Saturday the 21st, beg leave to report:

That they had a conference the morning following with the Supreme Executive Council, agreeable to the intention of Congress, and having communicated their resolution on that subject, informed the Council that Congress considered the proceeding on which that resolution was founded, of so serious a nature as to render palliatives improper, and to require that vigorous measures should be taken to put a stop to the further progress of the evil, and to compel submission on the part of the offenders: that, in this view, they had thought it expedient to declare to the Executive of the State in which they reside, the necessity of taking effectual measures for supporting the public authority: that though they had declined a specification of the measures which they would deem effectual, it was their sense, that a number of the militia should be immediately called out, sufficient to suppress the revolt. That Congress, unwilling to expose the United States to a repetition of the insult, had suspended their ordinary deliberations in this city, till proper steps could be taken to provide against the possibility of it.

The Council, after some conversation, informed the Committee that they would wish, previous to a determination, to ascertain the state and disposition of the militia, and to consult the officers for that purpose.

The day following the Committee waited upon the Council fo their final resolution, having previously presented a letter ad dressed to his Excellency the President, of which a copy is an

nexed,* requesting the determination of the Council in writing. The Council declined a written answer, alleging that it had been unusual on similar occasions; that they were unwilling to do any thing which might appear an innovation in the manner of conducting conferences between their body and committees of Congress: adding, however, that they were ready to give their answer in writing, if Congress should request it. They then proceeded to a verbal answer, in substance as follows: That the Council had a high respect for the representative sovereignty of the United States, and were disposed to do every thing in their power to support its dignity. That they regretted the insult which had happened, with this additional motive of sensibility, that they had themselves had a principal share in it. That they had consulted a number of well-informed officers of the militia, and found that nothing in the present state of things was to be expected from that quarter. That the militia of the city in general, were not only ill-provided for service, but disinclined to act upon the present occasion. That the Council did not believe any exertions were to be looked for from them, except in case of further outrage and actual violence to person or property. That in such case a respectable body of citizens would arm for the security of their property and of the public peace; but it was to be doubted what measure of outrage would produce this effect; and in particular, it was not to be expected merely from a repetition of the insult which had happened.

The Council observed that they thought it their duty to communicate their expectations with candor, and passed from the subject of the practicability of vigorous measures to the policy of them. They stated, that General St. Clair, with the approbation of several members of Congress and of Council, had, by a declaration in writing, permitted the mutineers to choose a committee

PHILADELPHIA, June 23, 1783.

* "SIR,—We have the honor to inclose for your Excellency and the Council, a copy of the resolutions communicated in our conference yesterday. Having then fully entered into all the explanations which were necessary on the subject, we shall not trouble your Excellency with a recapitulation, but as the object is of a delicate and important nature, we think it our duty to request the determination of the Council in writing.

of commissioned officers to represent their grievances to Council, and had authorized them to expect that a conference would be allowed for that purpose. That it was said the mutineers began to be convinced of their error, and were preparing submissions. That from the steps which had been taken, the business seemed to be in a train of negotiation, and that it merited consideration, how far it would be prudent to terminate the matter in that way rather than employ coercive means.

The Committee remarked, with respect to the scruple about giving an answer in writing, that they could not forbear differing in opinion as to its propriety. That nothing was more common than written communications between the Executives of the different States and the civil and military officers acting under the authority of the United States; that for a much stronger reason there was a propriety in this mode of transacting business between the Council and a Committee of the body of Congress. That indeed it would be conformable to the most obvious and customary rules of proceeding, and that the importance of the present occasion made it desirable to give every transaction the greatest precision. With respect to the practicability of employing the militia, the Committee observed, that this was a point of which the Council was alone competent to judge. That the duty of the Committee was performed in explicitly signifying the expectations of Congress.

And with respect to the policy of coercion, the Committee remarked, that the measures taken by Congress clearly indicated their opinion, that the excesses of the mutineers had passed the bounds within which a spirit of compromise might consist with the dignity and even safety of government. That impunity for what had happened might encourage to more flagrant proceedings, invite others to follow the example, and extend the mischief. That the passiveness of conduct observed towards the detachment which had mutinied at Lancaster, and came to the city in defiance of their officers, had, no doubt, led to the subsequent violences. That these considerations had determined Congress to adopt decisive measures. That besides the application to the State in which they reside, for its immediate support,

they had not neglected other means of ultimately executing their purposes, but had directed the Commander-in-Chief to march a detachment of troops towards the city. That whatever moderation it might be prudent to exercise towards the mutineers, when they were once in the power of the government, it was necessary, in the first instance, to place them in that situation. That Congress would probably continue to pursue this object, unless it should be superseded by unequivocal demonstrations of submission on the part of the mutineers. That they had hitherto given no satisfactory evidence of this disposition, having lately presented the officers they had chosen to represent their grievances, with a formal commission in writing, enjoining them, if necessary, to use compulsory means for redress, and menacing them with death, in case of their failing to execute their views. Under this state of things, the Committee could not forbear suggesting to the Council, that it would be expedient for them so to qualify the reception which they should think proper to give to any propositions made by the mutineers, as not to create embarrassment, should Congress continue to act on the principle of coercion.

The Committee finding that there was no satisfactory ground to expect prompt and adequate exertions on the part of the Executive of this State, for supporting the public authority, were bound by the resolution under which they acted, to advise the President to summon Congress to assemble at Princeton or Trenton on Thursday the 26th inst.

Willing, however, to protract the departure of Congress as long as they could be justified in doing it, still hoping that further information would produce more decisive measures on the part of the Council, ond desirous of seeing what complexion the intimated submissions would assume, they ventured to defer advising the removal till the afternoon of the day following that on which the answer of Council was given. Bet having then received no further communication from the Council, and having learnt from General St. Clair that the submissions proposed to be offered by the mutineers, through the officers they had chosen to represent them, were not of a nature sufficiently explicit to be

accepted or relied on, that they would be accompanied by new demands, to which it would be improper to listen; that the officers themselves composing the committee had shown a mysterious reluctance to inform General St. Clair of their proceedings; had refused, in the first instance, to do it, and had afterwards only yielded to a peremptory demand on his part. The Committee could no longer think themselves at liberty to delay their advice for an adjournment, which they this day accordingly gave; persuaded, at the same time, that it was necessary to impress the mutineers with a conviction, that extremities would be used against them before they would be induced to resolve on a final and unreserved submission.

PHILADELPHIA, June 24th, 1783.

July 2d, 1783.

Whereas, by the Confederation, the assent of nine States is requisite to the determination of matters of principal importance to the United States, and the representation in Congress has, for some time past, generally consisted of less than the number of States: in consequence whereof, the public business, at an interesting juncture, has suffered, and continues to suffer, great delay and embarrassment,

Resolved, That the States which are not present in Congress, be informed that it is indispensable they should, without loss of time, send forward a delegation to Congress.

VINDICATION OF CONGRESS.

However men actuated by private pique or party views may take pleasure in stigmatizing the conduct of Congress, with or without reason, considerate and good men, who are solicitous for the honor of their country, will act upon very different principles. They will view with regret those instances in which the

measures of that body may be really entitled to blame—will be cautious how they bestow it where it is not merited—and will always examine with candor before they condemn. Though it is certainly true that the infallibility of that or any other body is a doctrine to be reprobated in a free country, and a servile complaisance to its errors would be as dangerous as despicable, yet it must be allowed, that an opposite extreme may be little less pernicious.

A captious disposition to arraign without examination—to accumulate undistinguishing censure—to excite jealousies against the phantom, without the substance of power—to blame for defects in the Constitution itself, not in the administration of it—is a vice of nearly as mischievous a tendency in the public mind, as a blind and superstitious reverence.

In the present circumstances of this country, most evil is to be apprehended from the prevalency of the former spirit; for new governments emerging out of a revolution, are naturally deficient in authority, and require that every effort should be made to strengthen, not to undermine, the public confidence. This observation applies with peculiar force to the government of the Union—the constitutional imbecility of which must be apparent to every man of reflection.

It is therefore painful to hear, as is too fashionable a practice, indiscriminate censure heaped upon Congress for every public failure and misfortune, without considering the entire disproportion between the means which that body have it in their power to employ, and their responsibility.

It is equally exceptionable to see all the errors of their predecessors concentred in a mass of accusation against the subsisting body. If there have been meritorious acts performed by Congress at any period of the revolution, all the praise of it is confined to the immediate actors; if there have been faults committed, they descend with increasing odium upon all who come after. The good deeds of Congress die, or go off the stage with the individuals who are the authors of them, but their mistakes are the inheritance of all those who succeed.

It is true, Congress in a political capacity are perpetual; but

the individuals who compose it in fact undergo frequent changes. It is not more reasonable to charge any present set of members for the mismanagement of a former set—allowing it to be real—than it would be to impute to George the Third the crimes of Henry the Eighth. It is a principle of the English law that the king never dies, and yet no man in his senses, on account of this fiction of the law, will transfer to the reigning monarch the infamy of his predecessor's misconduct. It is not less unjust or absurd to blame a subsisting Congress, the greater part of whose members have had no agency in the measures which are the objects of crimination, for the ill consequences of those measures.

It is not much to be wondered at that this error should exist among the uninformed parts of the community, who can only be expected to have general notions of Congress, without any precise ideas of their constitution, and who, therefore, will be disposed to view them always under the same form, without attending to the changes which the body is continually undergoing. But when men more enlightened fall into the same fallacy, it is an argument of disingenuous intentions, and proves them to be under the influence of passion, of prejudice, or of something worse.

The chief topics of clamor against Congress are, either positive breaches of faith, by avowed departures from express stipulations, as in the reduction of the Continental money from forty to one, or negative, as the general non-performance of the public engagements.

As to those of the first kind, without entering into a discussion of particular instances—without examining whether those which may have happened, may have been produced by inexperience, necessity, levity, or design—it will be sufficient, in justification of the present Congress to say, that a large majority of them had no share whatever in those acts which are the subject of complaint. And to those of the last kind, there always has been, and is, a conclusive and satisfactory answer to be given for Congress. The power of raising money is not vested in them. All they can do, is to assign their quota to the several States, and to make requisitions from them. This they have not failed

to do in the most ample manner; and if the States do not comply, to enable them to execute their engagements, the delinquency is not to be charged upon Congress.

Should it be said, that Congress ought not to have made engagements without the power of fulfilling them, this is to say, that they ought to have given up the contest, and to have betrayed the liberty of America. It was necessary to incur debts to support the revolution; and no man who is a sincere friend to it, can be serious in advancing the position, that this essential resource ought not to have been employed, from a scruple of that nature.

If Congress, indeed, after a definitive conclusion of the peace, consent to be the instruments of future engagements, without more effectual provision at their disposal, they will then merit the indignation of every honest man.

But the present Congress have more than this general argument to offer in their vindication. They can say, with truth, that so far from having committed any positive violations of faith, they have manifested a uniform and anxious solicitude for the restoration of public credit, and for doing complete justice to every class of public creditors. Having found, by repeated and daily experience, that the provisions of the Confederation were unequal to the purpose, they have had recourse to extraordinary expedients. The plan of the (April 18, 1782,) for funding the public debt, is now depending before the several legislatures; nor is it possible for them to give a more decisive proof of their disposition to justice than is contained in that plan.

Congress stand in a very delicate and embarrassing situation. On the one hand, they are blamed for not doing what they have no means of doing; on the other, their attempts are branded with the imputations of a spirit of encroachment, and a lust of power.

In these circumstances, it is the duty of all those who have the welfare of the community at heart, to unite their efforts to direct the attention of the people to the true source of the public disorders—the want of an EFFICIENT GENERAL GOVERNMENT—

and to impress upon them this conviction, that these States, to be happy, must have a stronger bond of UNION, and a CONFEDERATION capable of drawing forth the resources of the country. This will be a more laudable occupation than that of cavilling against measures, the imperfection of which is the necessary result of the Constitution.

The residue is not preserved.

LETTERS FROM PHOCION

To the considerate Citizens of New-York, on the Politics of the Times, in consequence of the Peace.

1784.

LETTER I.

While not only every personal artifice is employed by a few heated and inconsiderate spirits, to practise upon the passions of the people, but the public papers are made the channel of the most inflammatory and pernicious doctrines, tending to the subversion of all private security and genuine liberty; it would be culpable in those who understand and value the true interests of the community to be silent spectators. It is, however, a common observation, that men, bent upon mischief, are more active in the pursuit of their object than those who aim at doing good. Hence it is, in the present moment, we see the most industrious efforts made to violate the Constitution of this State, to trample upon the rights of the subject, and to chicane or infringe the most solemn obligations of treaty; while dispassionate and upright men almost totally neglect the means of counteracting these dangerous attempts. A sense of duty alone calls forth the observations, which will be submitted to the good sense of the people, in this paper, from one who has more inclination than leisure to serve them; and who has had too deep a share in the

common exertions in this Revolution, to be willing to see its fruits blasted by the violence of rash or unprincipled men, without, at least, protesting against their designs.

The persons alluded to, pretend to appeal to the spirit of whigism; while they endeavor to put in motion all the furious and dark passions of the human mind. The spirit of whigism is generous, humane, beneficent, and just. These men inculcate revenge, cruelty, persecution, and perfidy. The spirit of whigism cherishes legal liberty, holds the rights of every individual sacred, condemns or punishes no man without regular trial and conviction of some crime declared by antecedent laws; reprobates equally the punishment of the citizen by arbitrary acts of legislation as by the lawless combinations of unauthorized individuals; while these men are advocates for expelling a large number of their fellow-citizens unheard, untried; or, if they cannot effect this, are for disfranchising them, in the face of the Constitution, without the judgment of their peers, and contrary to the law of the land.

The thirteenth article of the Constitution declares, "that no member of the State shall be *disfranchised*, or *defrauded of any of the rights or privileges* sacred to the subjects of this State by the Constitution, unless *by the law of the land or the judgment of his peers.*" If we inquire what is meant by the law of the land, the best commentators will tell us, that it means *due process of law; that is, by indictment or presentment of good and lawful men*,* and trial and conviction in consequence.

It is true, that *in England*, on extraordinary occasions, attainders for high treason, by Act of Parliament, have been practised; but many of the ablest advocates for civil liberty have condemned this practice; and it has commonly been exercised with great caution upon individuals only by name, never against *general descriptions* of men. The sense of our Constitution on this practice, we may gather from the forty-first article, where all attainders, other than for crimes committed during the late war, are fordidden.

* Coke upon Magna Charta, chap. 29, page 50.

If there had been no Treaty in the way, the Legislature might, by *name*, have attainted particular persons of high treason for crimes committed during the war; but, independent of the Treaty, it could not, and cannot, without tyranny, disfranchise or punish whole classes of citizens by general descriptions, without trial and conviction of offences known by laws previously established, declaring the offence and prescribing the penalty.

This is a dictate of natural justice, and a fundamental principle of law and liberty.

Nothing is more common than for a free people, in times of heat and violence, to gratify momentary passions, by letting into the government, principles and precedents which afterwards prove fatal to themselves. Of this kind is the doctrine of disqualification, disfranchisement, and banishment, by Acts of Legislature. The dangerous consequences of this power are manifest. If the Legislature can disfranchise any number of citizens at pleasure, by general descriptions, it may soon confine all the votes to a small number of partisans, and establish an aristocracy or an oligarchy. If it may banish at discretion, all those whom particular circumstances render obnoxious, without hearing or trial, no man can be safe, nor know when he may be the innocent victim of a prevailing faction. The name of liberty applied to such a government, would be a mockery of common sense.

The English Whigs, after the Revolution, from an overweening dread of Popery and the Pretender, from triennial, voted the parliament septennial. They have been trying, ever since, to undo this false step in vain, and repenting the effects of their folly in the overgrown power of the new family. Some imprudent Whigs among us, from resentment to those who have taken the opposite side (and many of them from worse motives), would corrupt the principles of our government, and furnish precedents for future usurpations on the rights of the community.

Let the people beware of such counsellors. However a few designing men may rise in consequence, and advance their private interests by such expedients, the people, at large, are sure to be the losers, in the event, whenever they suffer a departure

from the rules of general and equal justice, or from the true principles of universal liberty.

These men not only overleap the barriers of the Constitution without remorse, but they advise us to become the scorn of nations, by violating the solemn engagements of the United States.

They endeavor to mould the Treaty with Great Britain, into such form as pleases them, and to make it mean any thing or nothing, as suits their views. They tell us, that all the stipulations, with respect to the Tories, are merely, that Congress will recommend, and the States may comply or not, as they please.

But let any man of sense and candor read the Treaty, and it will speak for itself. The fifth article is indeed recommendatory; but the sixth is as positive as words can make it. "*There shall be* no future confiscations made, nor prosecutions commenced against any person or persons, for or by reason of the part which he or they may have taken in the present war; and no person shall, on that account, suffer any future loss or damage, either in his person, liberty, or property."

As to the restoration of confiscated property, which is the subject of the fifth article, the States may restore or not, as they think proper, because Congress engage only to recommend; but there is not a word about recommendation in the sixth article.

Quotations are made from the debates in Parliament, to prove that the whole is understood as recommendatory; but the expressions in those quotations, turn altogether upon those persons who have been actually proscribed, and their property confiscated; they have no relation to those who come under the sixth article, or who might be the objects of future prosecution or punishment. And to this it may be added, that it is absurd and inadmissible in fair reasoning, to combat the plain, authentic language of solemn treaty, by loose recitals of debates in newspapers.

The sound and ingenuous construction of the two articles, taken collectively, is this: That where the property of any persons, other than those who have been in arms against the United States, had been actually confiscated, and themselves proscribed, then Congress are to recommend a restoration of estates, rights,

and properties; and, with respect to those who had been in arms, they are to recommend permission for them to remain a twelvemonth in the country, to solicit a like restoration; but with respect to all those who were not in this situation, and who had not already been the objects of confiscation and banishment, they were to be absolutely secured from all future injury to person, liberty, or property.

To say that this exemption from positive injury, does not imply a right to live among us as citizens, is a pitiful sophistry; it is to say that the banishment of a person from his country, connections, and resources (one of the greatest punishments that can befall a man), is no punishment at all.

The meaning of the word *liberty* has been contested. Its true sense must be, the enjoyment of the common privileges of subjects under the same government. There is no middle line of just construction between this sense and a mere exemption from personal imprisonment! If the last were adopted, the stipulation would become nugatory; and, by depriving those who are the subjects of it, of the protection of government, it would amount to a virtual confiscation and banishment; for they could not have the benefit of the laws against those who should be aggressors.

Should it be said, that they may receive protection without being admitted to a full enjoyment of the privileges of citizens; this must be either matter of right under the Treaty, or matter of grace in the government. If the latter, the government may refuse it; and then the objection presents itself, that the Treaty would, by this construction, be virtually defeated: if matter of right, then it follows, that more is intended by the word liberty than a mere exemption from imprisoment; and where shall the line be drawn? not a capricious and arbitrary line, but one warranted by rational and legal construction?

To say that, by espousing the cause of Great Britain, they became aliens, and that it will satisfy the Treaty to allow them the same protection to which aliens are entitled, is to admit that subjects may, at pleasure, renounce their allegiance to the State of which they are members, and devote themselves to a

foreign jurisdiction; a principle contrary to law and subversive of government. But even this will not satisfy the Treaty; for aliens cannot hold real property under our government: and if they are aliens, all their real estates belong to the public. This will be, to all intents and purposes, a confiscation of property. But this is not all. How does it appear that the persons who are thus to be stripped of their citizenship, have been guilty of such an adherence to the enemy, as, in legal contemplation, amounts to a crime? Their merely remaining in their possessions, under the power of the conqueror, does not imply this, but is executed by the laws and customs of all civilized nations. To adjudge them culpable, they must be first tried and convicted; and this the Treaty forbids. These are the difficulties involved, by recurring to subtle and evasive, instead of simple and candid, construction, which will teach us, that the stipulations in the Treaty amount to an amnesty and act of oblivion.

There is a very simple and conclusive point of view in which this subject may be placed. No citizen can be deprived of any right which the citizens in general are entitled to, unless forfeited by some offence. It has been seen that the regular and constitutional mode of ascertaining whether this forfeiture has been incurred, is by legal process, trial, and conviction. This *ex vi termini*, supposes prosecution. Now, consistent with the Treaty, there can be no future prosecution for any thing done on account of the war. Can we then do, by act of Legislature, what the Treaty disables us from doing by due course of law? This would be to imitate the Roman General, who, having promised Antiochus to restore half his vessels, caused them to be sawed in two before their delivery; or the Platæans, who, having promised the Thebans to restore their prisoners, had them first put to death, and returned them dead.

Such fraudulent subterfuges are justly considered more odious than an open and avowed violation of Treaty.

When these posture-masters in logic are driven from this first ground of the meaning of the Treaty, they are forced to that of attacking the right of Congress to make such a stipulation, and arraigning the impudence of Great Britain in attempting to make

terms for our own subjects. But here, as every where else, they are only successful in betraying their narrowness and ignorance. Does not the act of Confederation place the exclusive right of making war and peace in the United States in Congress? Have they not the sole power of making treaties with foreign nations? Are not these among the first rights of sovereignty? And does not the delegation of them to the general Confederacy, so far abridge the sovereignty of each particular State? Would not a different doctrine involve the contradiction of *imperium in imperio?* What reasonable limits can be assigned to these prerogatives of the Union, other than the general safety and the *fundamentals* of the Constitution? Can it be said, that a Treaty for arresting the future operations of positive acts of Legislature, and which has indeed no other effect than that of a pardon for past offences committed against these acts, is an attack upon the fundamentals of the State Constitutions? Can it be denied that the peace which was made, taken collectively, was manifestly for the general good—that it was even favorable to the solid interests of this country, beyond the expectation of the most sanguine? If this cannot be denied—and none can deny it who know either the value of the objects gained by the Treaty, or the necessity these States were under at the time of making peace—it follows, that Congress and their Ministers acted wisely in making the Treaty which has been made; and it follows from this, that these States are bound by it, and ought religiously to observe it.

The *uti possidetis*, *each party to hold what it possesses*, is the point from which nations set out in framing a Treaty of Peace. If one side gives up a part of its acquisitions, the other side renders an equivalent in some other way. What is the equivalent given to Great Britain for all the important concessions she has made? She has surrendered the capital of this State and its large dependencies. She is to surrender our immensely valuable posts on the frontier; and to yield to us a vast tract of western territory, with one half of the lakes, by which we shall command almost the whole fur trade. She renounces to us her claim to the navigation of the Mississippi, and admits us to share in the fisheries, even on better terms than we formerly enjoyed

it. As she was in possession, by right of war, of all these objects, whatever may have been our original pretensions to them, they are, by the laws of nations, to be considered as so much given up on her part. And what do we give in return? We stipulate that there shall be no future injury to her adherents among us. How insignificant the equivalent in comparison with the acquisition! A man of sense would be ashamed to compare them; a man of honesty, not intoxicated with passion, would blush to lisp a question of the obligation to observe the stipulation on our part.

If it be said that Great Britain has only restored to us what she had unjustly taken from us, and that therefore we are not bound to make compensation; this admits of several answers:—Firstly: That the fact is not true; for she has ceded to us a large tract of country to which we had even no plausible claim. Secondly: That however the principle of the objection might have been proper, to prevent our promising an equivalent, it comes too late after the promise has been made. Thirdly: That as to the external effects of war, the voluntary law of nations knows no distinction between the justice or injustice of the quarrel, but in the Treaty of Peace puts the contracting parties upon an equal footing; which is a necessary consequence of the independence of nations: for, as they acknowledge no common judge, if, in concluding peace, both parties were not to stand upon the same ground of right, there never could be an adjustment of differences, or an end of war. This is a settled principle.

Let us examine the pretext upon which it is disputed. Congress, say our political jugglers, have no right to meddle with our internal police. They would be puzzled to tell what they mean by the expression. The truth is, it has no definite meaning; for it is impossible for Congress to do a single act which will not, directly or indirectly, affect the internal police of every State. When, in order to procure privileges of commerce to the citizens of these States, in foreign countries, they stipulate a reciprocity of privileges here, does not such an admission of the subjects of foreign countries to certain rights within these States, operate immediately upon their internal police? And

were this not done, would not the power of making commercial treaties, vested in Congress, become a mere nullity? In short, if nothing was to be done by Congress that would affect our internal police, in the large sense in which it has been taken, would not all the powers of the Confederation be annihilated, and the Union dissolved?

But, say they again, such a thing was never heard of, as an indemnity for traitorous subjects stipulated in a Treaty of Peace. History will inform them that it is a stipulation often made. Two examples shall be cited: The Treaty of Munster, which put an end to the differences between Spain and the United Provinces, after the revolution of those Provinces: The Treaty concluded, in seventeen hundred and thirty-eight, between the Empire, France, Spain, Poland, and several other powers, called the Christian peace. The war which preceded this Treaty, was one of the most complicated in which Europe had been engaged: the succession to the Spanish Monarchy, and the right to the throne of Poland, had been included in it; Stanislaus having been obliged to abdicate the crown. Different parts of the nations concerned had taken opposite sides. Many of the German princes had been in arms against the Empire to which they owed obedience. This Treaty not only mutually stipulates indemnity to the subjects of the respective powers, but even restitution of *property* and *offices*. The Emperor, who contracted in behalf of the Empire, has much less extensive powers, as head of the Empire, than Congress, as representative of the United States.

But let it be admitted that Congress had no right to enter into this article; do not equity and prudence strongly urge the several States to comply with it? We have, in part, enjoyed the benefit of the Treaty; in consequence of which, we, of this State, are now in possession of our capital; and this implies an obligation in conscience, to perform what is to be performed on our part. But there is a consideration which will, perhaps, have more force with men who seem to be superior to conscientious obligations; it is, that the British are still in possession of our frontier posts, which they may keep in spite of us; and that

they may essentially exclude us from the fisheries, if they are so disposed. Breach of Treaty on our part will be a just ground for breaking it on theirs. The Treaty must stand or fall together. The wilful breach of a single article annuls the whole.* Congress are appointed by the Constitution, to manage our foreign concerns. The nations with whom they contract, are to suppose they understand their own powers, and will not exceed them. If they do it in any instance, and we think it proper to disavow the act, it will be no apology to those with whom they contract, that they had exceeded their authority. One side cannot be bound, unless the obligation is reciprocal.

Suppose, then, Great Britain should be induced to refuse a further compliance with the Treaty, in consequence of a breach of it on our part; what situation should we be in? Can we renew the war to compel a compliance? We know, and all the world knows, it is out of our power. Will those who have heretofore assisted us, take our part? Their affairs require peace as well as ours; and they will not think themselves bound to undertake an unjust war, to regain to us rights which we have forfeited by a childish levity, and a wanton contempt of public faith.

We should then have sacrificed important interests to the little, vindictive, selfish, mean passions of a few. To say nothing of the loss of territory, of the disadvantage to the whole commerce of the Union, by obstructions in the fisheries; this State would lose an annual profit of more than fifty thousand pounds *sterling* from the fur trade.

But not to insist on possible inconveniences, there is a certain evil which attends our intemperance; a loss of character in Europe. Our ministers write, that our conduct, hitherto, in this respect, has done us infinite injury, and has exhibited us in the light of a people destitute of government, on whose engagements of course no dependence can be placed.

The men who are at the head of the party which contends for disqualification and expulsion, endeavor to enlist a number

* Vatel, Book 4, Chapter 4, § 47. Grotius, Book 3, Chapter 19, § 14.

of people on their side by holding out motives of private advantage to them. To the trader they say, You will be overborne by the large capitals of the tory merchants; to the mechanic, Your business will be less profitable, your wages less considerable, by the interference of tory workmen. A man, the least acquainted with trade, will indeed laugh at such suggestions. He will know that every merchant, or trader, has an interest in the aggregate mass of capital, or stock in trade; that what he himself wants in capital, he must make up in credit; that unless there are others who possess large capitals, this credit cannot be had; and that, in the diminution of the general capital of the State, commerce will decline, and his own prospects of profit will diminish.

These arguments, if they were understood, would be conclusive with the mechanic: "There is already employment enough for all the workmen in the city, and wages are sufficiently high. If you could raise them by expelling those who have remained in the city, and whom you consider as rivals, the extravagant price of wages would have two effects; it would draw persons to settle here, not only from other parts of this State, but from the neighboring States. Those classes of the community who are to employ you, will make a great many shifts rather than pay the exorbitant prices you demand; a man will wear his old clothes so much longer, before he gets a new suit; he will buy imported shoes cheap rather than those made here at so dear a rate: the owner of a house will defer the repairs as long as possible; he will only have those which are absolutely necessary made; he will not attend to elegant improvement: and the like will happen in other branches. These circumstances will give less employment, and in a very little time bring back your wages to what they now are, and even sink them lower. But this is not all. You are not required merely to expel your rival mechanics, but you must drive away the rich merchants and others who are called tories, to please your leaders, who will persuade you they are dangerous to your liberty (though, indeed, they only mean their own consequence). By this conduct you will drive away the principal part of those who have the means of becoming large undertakers. The carpenters and masons, in par-

ticular, must be content with patching up the houses already built, and building little huts upon the vacant lots, instead of having profitable and durable employment in erecting large and elegant edifices."

There is a certain proportion, or level, in all the departments of industry. It is folly to think to raise any of them, and keep them long above their natural height. By attempting to do it, the economy of the political machine is disturbed, and till things return to their proper state, the society at large suffers. The only object of concern with an industrious artisan, as such, ought to be, that there may be plenty of money in the community, and a brisk commerce to give it circulation and activity. All attempts at profit, through the medium of monopoly, or violence, will be as fallacious as they are culpable.

But, say some, to suffer these wealthy disaffected men to remain among us, will be dangerous to our liberties. Enemies to our government, they will be always endeavoring to undermine it, and bring us back to the subjection of Great Britain. The safest reliance of every government, is on men's interests. This is a principle of human nature, on which all political speculation, to be just, must be founded. Make it the interest of those citizens who, during the Revolution, were opposed to us, to be friends to the new government, by affording them not only protection, but a participation in its privileges, and they will undoubtedly become its friends. The apprehension of returning under the dominion of Great Britain is chimerical: if there is any way to bring it about, the measures of those men against whose conduct these remarks are aimed, lead directly to it. A disorderly, or a violent government, may disgust the best citizens, and make the body of the people tired of their independence.

The embarrassed and exhausted state of Great Britain, and the political system of Europe, render it impossible for her ever to reacquire the dominion of this country. Her former partisans must be convinced of this, and abandon her cause as desperate. They will never be mad enough to risk their fortunes a second time, in the hopeless attempt of restoring her authority; nor

will they have any inclination to do it, if they are allowed to be happy under the government of the society in which they live. To make it practicable, if they should be so disposed, they must not only get the government of this State, but of the United States, into their hands. To suppose this possible, is to suppose that a majority of the numbers, property, and abilities of the United States, has been, and is, in opposition to the Revolution. Its success is a clear proof that this has not been the case; and every man of information among us, knows the contrary. The supposition itself would show the absurdity of expelling a small number from the city, which would constitute so insignificant a proportion of the whole, as, without diminishing their influence, would only increase their disposition to do mischief. The policy, in this case, would be evident, of appealing to their interests rather than to their fears.

Nothing can be more ridiculous than the idea of expelling a few from this city and neighborhood, while there are numbers in different parts of this and other States, who must necessarily partake in our governments, and who can never expect to be the objects of animadversion or exclusion. It is confirming *many* in their enmity and prejudices against the State, to indulge our enmity and prejudices against a few.

The idea of suffering the tories to live among us under disqualifications, is equally mischievous and absurd. It is necessitating a large body of citizens in the State, to continue enemies to the government, ready, at all times, in a moment of commotion, to throw their weight into that scale which meditates a change, whether favorable or unfavorable to public liberty.

Viewing the subject in every possible light, there is not a single interest of the community but dictates moderation rather than violence. That honesty is still the best policy; that justice and moderation are the surest supports of every government; are maxims which, however they may be called trite, are at all times true: though too seldom regarded, but rarely neglected with impunity. Were the people of America, with one voice, to ask, What shall we do to perpetuate our liberties and secure our happiness? the answer would be, "Govern well," and you have

nothing to fear, either from internal disaffection or external hostility. Abuse not the power you possess, and you need never apprehend its diminution, or loss. But if you make a wanton use of it; if you furnish another example, that despotism may debase the government of the many as well as the few; you, like all others that have acted the same part, will experience that licentiousness is the forerunner to slavery.

How wise was that policy of Augustus, who, after conquering his enemies, when the papers of Brutus were brought to him, which would have disclosed all his secret associates, immediately ordered them to be burnt. He would not even know his enemies, that they might cease to hate where they had nothing to fear.

How laudable was the example of Elizabeth, who, when she was transferred from the prison to the throne, fell upon her knees, and, thanking Heaven for the deliverance it had granted her from her bloody persecutors, dismissed her resentment. "This act of pious gratitude," says her historian, "seems to have been the last circumstance in which she remembered any past injuries and hardships. With a prudence and magnanimity truly laudable, she buried all offences in oblivion, and received, with affability, even those who had acted with the greatest virulence against her." She did more; she retained many of the opposite party in her councils.

The reigns of these two sovereigns are among the most illustrious in history. Their moderation gave a stability to their government, which nothing else could have effected. This was the secret of uniting all parties.

These sentiments are delivered to you, in the frankness of conscious integrity, by one who *feels* that solicitude for the good of the community which the zealots, whose opinions he encounters, profess; by one who pursues not, as they do, the honors or emoluments of his country; by one who, though he has had, in the course of the Revolution, a very *confidential* share in the public councils, civil and military, and has as often, at least, met danger in the common cause as any of those who now assume to be the guardians of the public liberty, asks no other reward

from his countrymen, than to be heard without prejudice for their own interest.

PHOCION.

P. S. While the writer hopes the sentiments of this letter will meet the approbation of discreet and honest men, he thinks it necessary to apologize for the hasty and incorrect manner. Perhaps, too, expressions of too much asperity have been employed against those who take the lead in the principles which are here opposed; and feelings of indignation against the pernicious tendency of their measures, have not admitted sufficient allowances for what is, in some instances, an honest though mistaken zeal. Though the writer entertains the worst opinion of the motives of many of them, he believes there are some who act from principle.

LETTER II.

The little hasty production, under the signature of PHOCION, has met with a more favorable reception from the public than was expected. The force of plain truth has carried it along against the stream of prejudice; and the principles it holds out, have gained ground, in spite of the opposition of those who were either too angry, or too much interested, to be convinced. Men of this description, have, till lately, contented themselves with virulent invectives against the writer, without attempting to answer his arguments; but alarmed at the progress of the sentiments advocated by him, one of them has at last come forward with an answer; with what degree of success, let those who are most partial to his opinion determine.

To say that the answer of Mentor is a feeble attempt, would be no derogation from his abilities; for, in fact, the cause he espouses, admits of nothing solid; and, as one of its partisans, he is only to be blamed for not knowing its weak sides better, than to have been tempted to expose it to the experiment of a defence.

But, before I enter further into the subject, I shall take occasion to acknowledge, with regret, the injudicious appearance of warmth in my former letter; calculated, with many minds, to raise prejudices against the truths it contains, and liable to be misrepresented into a general censure on that part of the community whose zeal, sacrifices, and sufferings, must ever render them respectable to the true friends of the Revolution. I shall only observe, in apology (as is truly the case), that whatever severity of animadversion may have been indulged, was wholly directed against a *very small* number of men, who are manifestly aiming at nothing but the acquisition of power and profit to themselves; and who, to gratify their avidity for these objects, would trample upon every thing sacred in society, and overturn the foundations of public and private security. It is difficult for a man, conscious of a pure attachment to the public weal, who sees it invaded and endangered by such men, under specious but false pretences, either to think, or to speak of their conduct, without indignation. It is equally difficult for one, who, in questions that affect the community, regards *principles* only, and not *men*, to look with indifference on attempts to make the great principles of social right, justice, and honor, the victims of personal animosity or party intrigue.

More tenderness is indeed due to the mistakes of those who have suffered too much to reason with impartiality; whose honest prejudices, grown into habits by the impressions of an eight years' war, cannot at once accommodate themselves to that system which the public good requires; and whose situations are less favorable to distinguishing between doctrines invented to serve the turn of a Revolution, and those which must give permanent prosperity to the State.

These observations I have thought proper to premise, in justice to my own intentions; and I shall now proceed, as concisely as possible, to examine the suggestions of Mentor, interspersing, as I go along, some remarks on objections which, though omitted by him, have been urged in other shapes against the principles of Phocion.

Mentor proposes to treat the sentiments of Phocion as a

political novelty; but if he is serious, it is a proof that he is not even "tolerably well informed." They are as old as any regular notions of free government among mankind; and are to be met with not only in every speculative writer on these subjects, but are interwoven in the theory and practice of that code which constitutes the law of the land. They speak the common language of this country at the beginning of the Revolution, and are essential to its future happiness and respectability.

The principles of all the arguments I have used, or shall use, lie within the compass of a few simple propositions, which, to be assented to, need only to be stated.

Firstly: That no man can forfeit, or be justly deprived, without his consent, of any right, to which, as a member of the community, he is entitled, but for some crime incurring the forfeiture.

Secondly: That no man ought to be condemned unheard, or punished for supposed offences, without having an opportunity of making his defence.*

Thirdly: That a crime is *an act* committed or omitted, in violation of a public law, either forbidding or commanding it.†

Fourthly: That a prosecution is, in its most precise signification, an *inquiry* or *mode of ascertaining*, whether a particular person has committed or omitted such *act.*

Fifthly: That *duties* and *rights*, as applied to subjects, are reciprocal; or, in other words, that a man cannot be a *citizen* for the purpose of punishment, and not a *citizen* for the purpose of privilege.

These propositions will hardly be controverted by any man professing to be a friend to civil liberty. The application of them will more fully appear hereafter.

By the Declaration of Independence, on the fourth of July, in the year seventeen hundred and seventy-six, acceded to by our Convention on the ninth, the late colony of New-York became an independent State. All the inhabitants, who were sub-

* Vide Address of Congress to the people of Great Britain, September 5, 1774.

† Blackstone, vol. iv., page 5.

jects under the former government, and who did not withdraw themselves upon the change which took place, were to be considered as citizens, owing allegiance to the new government. This, at least, is the legal presumption; and this was the principle, in fact, upon which all the measures of our public councils have been grounded. Duties have been exacted, and punishments inflicted, according to this rule. If any exceptions to it were to be admitted, they could only flow from the *indulgence* of the State to such individuals as, from peculiar circumstances, might desire to be permitted to stand upon a different footing.

The inhabitants of the southern district, before they fell under the power of the British army, were as much citizens of the State as the inhabitants of other parts of it. They must, therefore, continue to be such, unless they have been divested of that character by some posterior circumstance. This circumstance must either be,

Their having, by the fortune of war, fallen under the power of the British army;

Their having forfeited their claim by their own misconduct;

Their having been left out of the compact by some subsequent association of the body of the State; or,

Their having been dismembered by treaty.

The first of these circumstances, according to the fundamental principles of government, and the constant practice of nations, could have no effect in working a forfeiture of their citizenship. To allow it such an effect, would be to convert misfortune into guilt; it would be, in many instances, to make the negligence of the society, in not providing adequate means of defence for the several parts, the crime of those parts which were the immediate sufferers by that negligence. It would tend to the dissolution of society, by loosening the ties which bind the different parts together, and justifying those who should, for a moment, fall under the power of a conqueror; not merely in yielding such a submission as was exacted from them, but in taking a willing, interested, and decisive part with him.

It was the policy of the Revolution, to inculcate upon every

citizen the obligation of renouncing his habitation, property, and every private concern, for the service of his country; and many of us have scarcely yet learned to consider it as less than treason to have acted in a different manner. But it is time we should correct the exuberances of opinions propagated through policy, and embraced from enthusiasm: and while we admit, that those who did act so disinterested and noble a part, deserve the applause, and, wherever they can be bestowed with propriety, the rewards of their country, we should cease to impute indiscriminate guilt to those who, submitting to the accidents of war, remained with their habitations and property. We should learn that this conduct is tolerated by the general sense of mankind; and that, according to that sense, whenever the State recovers the possession of such parts as were, for a time, subdued, the citizens return at once to all the rights to which they were formerly entitled.

As to the second head, of forfeiture by misconduct, there is no doubt that all such as, remaining within the British lines, did not merely yield an obedience which they could not refuse without ruin, but took a voluntary and interested part with the enemy, in carrying on the war, became subject to the penalties of treason. They could not, however, by that conduct, make themselves aliens, because, though they were bound to pay a temporary and qualified obedience to the conqueror, they could not transfer their eventual allegiance from the State to a foreign power. By becoming aliens, too, they would have ceased to be traitors; and all the laws of the State, passed during the Revolution, by which they are considered and punished as subjects, would have been, by that construction, unintelligible and unjust. The idea, indeed, of citizens transforming themselves into aliens, by taking part against the State to which they belong, is altogether of new invention, unknown and inadmissible in law, and contrary to the nature of the social compact.

But were this not the case, an insurmountable difficulty would still remain: for how shall we ascertain who are aliens, or traitors, let us call them which we will? It has been seen that the boundaries of the British lines cannot determine the

question; for this would be to say, that the merely falling under the power of the British army, constituted every man a *traitor* or an *alien*. It would be to confound one third of the citizens of the State in promiscuous guilt and degradation, without evidence or inquiry. It would be to make crimes, which are, in their nature, personal and individual, aggregate and territorial. Shall we go into an inquiry to ascertain the crime of each person? *This would be a prosecution;** and the Treaty forbids all future prosecutions. Shall the Legislature take the map, and make a geographical delineation of the rights and disqualifications of its citizens? This would be to measure innocence and guilt by latitude and longitude. It would be to *condemn* and *punish*, not one man but thousands, for *supposed offences*, without giving them an opportunity of making their defence. God forbid that such an act of barefaced tyranny should ever disgrace our history! God forbid that the body of the people should be corrupt enough to wish it, or even to submit to it!

But here we are informed by Mentor, that the Treaty, instead of offering any obstacle to the views of those who wish to metamorphose their fellow-citizens into aliens, is precisely the thing which removes the difficulty. Mentor is thus far right, that if they are aliens at all, it must be by some stipulation in the Treaty: but it requires not a little dexterity to show that such a stipulation exists. If it exists at all, it must be collected from the fifth and sixth articles. Let us, by analyzing these articles, try if we can find it out.

The fifth article speaks, in the first clause, of *real British subjects*, whose estates *had been confiscated;* and stipulates that Congress shall recommend a restitution.

In the second clause it speaks of *persons resident* in districts in the possession of the British forces, who had not borne arms against the United States; of whose estates, *also confiscated*, Congress are, in like manner, to recommend a restitution.

In the third clause, persons of every other description are comprehended, who are to be permitted to remain twelve months

* *Vide* Proposition 4th.

unmolested, in any of the States, to solicit a restoration of their property, which *had been confiscated;* Congress recommending, even with respect to them, a restitution, on condition of their refunding to the present possessors, where there had been a sale, the *bona fide* price given by them for the estates in their possession.

It is apparent, from the dissection of the article, that the inhabitants in the Southern district, possessed by the British army, are not confounded in one general mass of alienism, as has been asserted. We find the express words of description are *real British subjects*, and as contradistinguished from them, *persons resident* in districts within the possession of the British arms. These last, by the *letter* as well as the spirit of the article, are deemed *not British subjects.*

There is no intelligible medium between a real British subject and one that is not a British subject at all. A man either *is* or *is not* the subject of a country. The word *real*, as applied to the affirmative, is a redundancy. Its natural contrasts are *fictitious* or *pretended.* If we should call the persons of other descriptions in the article *fictitious* or *pretended* British subjects; instead of justifying, it would exclude, the construction given by Mentor. For if they were only *fictitious* or *pretended* British subjects, they must be real American subjects: or, in other words, if they were not *real* British subjects, which, by necessary implication, they are declared not to be, they must, of necessity, be American subjects.

The phrase *real British subjects*, strictly considered, is inaccurate; but its practical import, with the help of a little candor, is easily fixed. It is well known, that in this and other States, the property of persons who had never been subjects of this country, before or after the Revolution, but who had truly been subjects of Great Britain, had, in many instances, been confiscated. Sir Henry Clinton, the late Governor Tryon, Lord Dunmore, are examples, among us, of the real British subjects in the contemplation of the Treaty. All the rest are, of course, American subjects.

To understand the fifth and sixth articles relatively, it is

necessary to remark, that all the different classes described in the fifth article, agree in one *common quality;* they are all persons *whose property had been already confiscated.* I have placed this fact in a pointed view; because it shows incontestably, that the persons who are the objects of the fifth article, and those who are the objects of the sixth, are totally different. The one relates to persons whose property had been confiscated, and *aims* at restitution; the other relates to those whose property had not yet been confiscated, who were not actually suffering the sentence of the law, and has for object, to prevent future prosecutions, confiscations, or injuries to individuals, on account of their conduct in the war.

This distinction solves the seeming contradiction between the fifth and sixth articles; the former providing for the future residence of persons of a particular description within the State, for a twelvemonth; the other prohibiting all future injury or damage to persons, liberty, or property. At first sight, the great extent of the latter provision appears to supersede, and render absurd, the former: but the two articles are reconciled, by considering those who had already suffered the sentence of the law, as not within the purview of the sixth article, to arrest or remit that sentence; while all others against whom sentence had not passed, are within the protection of the sixth article. It does not operate with a retrospective and restorative influence, but looks forward and stops the future current of prosecution and punishment.

To illustrate, in a more striking manner, the fallacy of Mentor's comment upon the Treaty, I shall give a recital of it, with some explanatory additions, the fairness of which, I think, will not be disputed.

"In the sixth article," says he, "it is provided that *no one shall suffer* in his person, liberty, or property, on account of the part he may have taken in the war;" and yet, though no one, consistently with the Treaty, can hereafter suffer in either of those respects, yet, many, consistently with the Treaty, may be declared aliens, may be stripped of the most valuable rights of citizenship, and may be banished from the State, without injury

to person, liberty, or property. "The fifth article," though it speaks of none but those who have already had their estates confiscated, "describes the persons provided for by the sixth," which indeed says, that there *shall be* no future prosecutions, nor confiscations, nor injury to person, liberty, or property: but this only means, that there shall be no future prosecutions commenced against those who have been already *attainted and banished;* nor confiscations made of the estates of those whose estates *have been already confiscated;* nor injuries done to the persons, liberty, and property of those, who are already to be esteemed *dead in law* by attainder and exile: but with respect to all those who have not been already *attainted*, *banished*, and *subjected to confiscation* (the only persons comprehended in the fifth article, and provided for in the sixth), we may prosecute, banish, confiscate, disfranchise, and do whatever else we think proper. The fifth article stipulates the good offices of Congress for those who have been already ruined; and the sixth benignly takes care that they shall not be ruined a second time; but leaves all others to their destiny and our mercy. "The fifth article distinguishes the persons who are the objects of it into three classes:—First; those who are real British subjects. The second; those," meaning British subjects, who were not real British subjects, described by the appellation of persons resident in districts in the possession of the British forces, "who had not taken arms against the country. The third class are described by the provision that is made for them; namely: They shall have liberty to go into any part of the United States for twelve months, to solicit a restoration of their estates that may have been confiscated. This class must be those who, belonging to America, have taken arms against their country. The first and second class, it is agreed, that Congress shall recommend to the States a restoration of their property. The third, it seems, were too infamous for the English minister to ask any consideration for, except the wretched privilege of asking it for themselves;" though, in fact, with respect even to them, it is expressly stipulated, that Congress shall recommend a restoration of their estates, rights, and properties, on paying to the present possessors, the *bona fide* price given for them, where there has

been an actual sale. "But," continues he, "I can find, nowhere, even a request, and that only implied, that any of the three classes may dwell among us, and enjoy the immunities and privileges of citizens: for the first class are considered as former subjects; the second and third as acquired subjects of England;" *acquired* but not *real.*

Thus we see, by taking the outlines of Mentor's construction, and filling up the canvas in a manner suited to the design, the whole is a group of absurdities; or, in other words, by connecting the consequences with the principles of his comment on the Treaty, the result is too ridiculous not to strike the meanest understanding.

It must appear by this time manifest, that there is nothing in the terms of the Treaty, which countenances the supposition that those who have been within the British lines are considered and stipulated for as aliens. One ground upon which this idea has been originally adopted, was, that it would have been improper to have stipulated for them at all, if they were not aliens: but I have shown, in my former letter, that a stipulation for subjects, in similar circumstances, has been far from unprecedented.

A good criterion by which to determine the meaning of the Treaty, in this respect, is, to recur to the impressions that it made on its first appearance, before there had been time to contrive and substitute an artificial to the natural and obvious sense of the words. Every man, by appealing to his own bosom, will recollect that he was at first struck with an opinion that the disaffected were secured from every future deprivation and injury whatever: and however many may have been chagrined at the idea that they should be admitted to a parity of privileges with those who had supported the Revolution, none doubted that this was the sense of the Treaty. Indeed, the principal doubt seemed to be, in the first instance, whether the sixth article was not so broad as to protect even those who had been attainted, from personal injury, in case of their return within the State.

I shall not, in this place, revive the question of the power of Congress to make this stipulation; not only because Mentor appears to have conceded this point, and to acknowledge our

obligation to a faithful observance of the Treaty; but because what has been offered in my former letter on this head, must continue to appear to me to be absolutely conclusive, until some satisfactory limits can be assigned to the powers of war, peace, and treaty, vested in Congress, other than those I have mentioned—the public safety, and the fundamental constitutions of society.

When any different and intelligible line shall be drawn, I will give up the question, if I cannot show it is inadmissible in practice.

The common interests of humanity, and the general tranquillity of the world, require that the power of making peace, wherever lodged, should be construed and exercised liberally: and even in cases where its extent may be doubtful, it is the policy of all wise nations to give it latitude rather than confine it. The exigencies of a community, in time of war, are so various, and often so critical, that it would be extremely dangerous to prescribe narrow bounds to that power by which it is to be restored. The consequence might frequently be a diffidence of our engagements, and a prolongation of the calamities of war.

It may not be improper, in this place, to answer an objection which has been made to a position contained in my former letter. It is there laid down as a rule, that the breach of a single article of a Treaty annuls the whole. The reason of this rule is, that every article is to be regarded as the consideration of some other article.

This has given occasion to observe, that a breach of the Treaty on the part of the British, in sending away a great number of negroes, has, upon my principles, long since annihilated the Treaty, and left us at perfect liberty to desert the stipulations on our part.

This admits of an easy and solid answer. The breach of one article annuls the whole, if the side injured by it chooses to take advantage of it to dissolve the Treaty:* but if its interest dictates a different conduct, it may waive the breach, and let the obligation of the Treaty continue. The power of determining

* Vatel, page 130, § 48.

whether the Treaty has been broken, properly belongs to that body who made it. Congress have wisely taken a different course; and, instead of reviving the state of hostility by declaring the Treaty void, have proceeded upon the presumption of its continuing in force; and, by subsequent acts, have given it additional validity and strength. The definitive Treaty has been since concluded, and proclaimed with a remarkable solemnity and energy for the observance of the citizens of the United States.

The third mode mentioned, by which the inhabitants of the Southern district may have lost their rights of citizenship, is, their having been left out of the compact by some subsequent association of the body of the State. The fact, however, is directly the reverse: for, not only the Constitution makes provision for the representation of the people of the Southern district in the Legislature, but, during the whole war, by an ordinance of the Convention who framed the Constitution, an actual representation has been kept up in a manner, the regularity of which (whatever might have been the expedience of it) was more than questionable, as all elections were suspended in that part of the State. This circumstance of a constant representation of the inhabitants of the Southern district in the Legislature, during the war, is, in a rational as well as a legal light, a conclusive refutation of the pretended alienism of those inhabitants by any events of the war, or by any other matter that applies to them in a collective view antecedent to the Treaty of Peace. To this it may be added that a variety of the laws of the State, in the course of the war, suppose and treat the inhabitants of the Southern district as subjects owing allegiance to the State, and, consequently, having the rights which subjects in general enjoy under the government.*

The argument is still stronger when we attend to what has been done by the government since the restoration of its jurisdiction in the Southern district. We did not wait till a bill of naturalization was passed, to remove the disabilities of the inhabitants before we proceeded to elections. We did not confine those

* *Vide* Position 5th.

elections to such persons only as had resided without the British lines, but left them open to all descriptions of persons who would choose to take the oath prescribed for that purpose by the Council. Few, indeed, in this city, besides those who had been absent, did in fact vote at the elections; but a considerable number did in the counties. And if we should admit the doctrine of the general alienism of the inhabitants of the Southern district, either before, or in consequence of the Treaty of Peace, a curious question, not easy to be solved, would arise, as to the validity of the election of many individuals now holding seats in Senate and Assembly. So far as an act of government can decide the point in controversy, it is already decided. The Council for the temporary government of the Southern district, in appointing the mode of election; the conduct of the Legislature since, in admitting the members elected in that mode, are unconstitutional; or the inhabitants at large of the Southern district, either by the Treaty, or any antecedent circumstance, are not aliens.

I have dwelt the more largely on this head, not only because the idea of a general alienism of the inhabitants of the Southern district is the ground Mentor has taken; but because some persons, who have it in their power to make a mischievous use of it, are endeavoring to give it circulation, where, if it could prevail, it might lead to pernicious consequences. Pressed by the difficulty of discriminating those who may have forfeited the rights of citizenship from those who have not, without a manifest violation, as well of the Constitution as of the Treaty of Peace, they are willing, if possible, to devise some general expedient to evade both; and the one they have hit upon, is, to declare all those aliens who have lived within the British lines during the war, on the miserable pretence that they are made such by the Treaty.

Thus we have another example how easy it is for men to change their principles with their situations; to be zealous advocates for the rights of the citizens when they are invaded by others; and, as soon as they have it in their power, to become the invaders themselves; to resist the encroachments of power,

when it is in the hands of others; and, the moment they get it into their own, to make bolder strides than those they have resisted. Are such men to be sanctified with the hallowed name of patriots? Are they not rather to be branded as men who make their passions, prejudices, and interests, the sole measure of their own and others' rights?

The history of mankind is too full of these melancholy instances of human contradiction.

Having mentioned the oath directed to be prescribed to electors in the Southern district, by the Council for the temporary government, I shall take occasion, in this place, with freedom but with respect, to examine the propriety of that measure.

This measure was founded upon an act of the Legislature of this State, passed in the year , declaring, that persons who had been guilty of certain matters particularized in that act, should be for ever after disqualified from voting at all public elections. I confine myself, for the sake of brevity, to the general idea of the act. The embarrassment with the Council, no doubt was, how to ascertain the persons who had incurred the disability. As the matters to which that disability related were of a specific nature, it was necessary they should be specifically ascertained before the law could have its effect.

The Council, therefore, could not satisfy that law by declaring all those disqualified who had resided within the British lines during the war. They would not leave the operation of it to a course of judicial investigation and decision, because this would be to fly in the face of the Treaty; and appearances were to be preserved. This consideration was strengthened by another. The course of the law must have been dilatory. The elections were to be entered upon. It was deemed inexpedient that the voice of the citizens at large (which must have been the case if the act of the Legislature in question had been left to its natural course) should govern these elections. If the returning citizens were not at this juncture gratified, tumults were by some apprehended.

This was a plausible step, and on that account the more dangerous. If we examine it with an unprejudiced eye, we must

acknowledge, not only that it was an evasion of the Treaty, but a subversion of one great principle of social security; to wit, that every man shall be presumed innocent until he is proved guilty. This was to invert the order of things; and, instead of obliging the State to prove the guilt in order to inflict the penalty, it was to oblige the citizen to establish his own innocence to avoid the penalty. It was to excite scruples in the honest and conscientious, and to hold out a bribe to perjury.

That this was an evasion of the Treaty, the fourth proposition already laid down will illustrate. It was a mode of inquiry, who had committed any of those crimes to which the penalty of disqualification was annexed; with this aggravation, that it deprived the citizen of the benefit of that advantage which he would have enjoyed, by leaving, as in all other cases, the burthen of the proof upon the prosecutor.

To place this matter in a still clearer light, let it be supposed, that instead of the mode of indictment and trial by jury, the Legislature was to declare, that every citizen who did not swear he had never adhered to the King of Great Britain, should incur all the penalties which our treason laws prescribe. Would this not be a palpable evasion of the Treaty, and a direct infringement of the Constitution? The principle is the same in both cases; with only this difference in the consequences, that, in the instance already acted upon, the citizen forfeits a part of his rights; in the one supposed, he would forfeit the whole. The degree of punishment is all that distinguishes the cases. In either, justly considered, it is substituting a new and arbitrary mode of prosecution to that ancient and highly esteemed one, recognized by the laws and the Constitution of the State; I mean the trial by jury.

Let us not forget, that the Constitution declares, that trial by jury, in all cases in which it has been formerly used, should remain inviolate for ever; and that the Legislature should, at no time, erect any new jurisdiction which should not proceed according to the course of the common law. Nothing can be more repugnant to the true genius of the common law, than such an inquisition as has been mentioned into the consciences of men.

A share in the sovereignty of the State, which is exercised

by the citizens at large, in voting at elections, is one of the most important rights of the subject, and, in a Republic, ought to stand foremost in the estimation of the law. It is that right by which we exist a free people; and it certainly, therefore, will never be admitted, that less ceremony ought to be used in divesting any citizen of that right than in depriving him of his property. Such a doctrine would ill suit the principles of the Revolution, which taught the inhabitants of this country to risk their lives and fortunes in asserting their *liberty;* or, in other words, their *right* to a *share* in the government. That portion of the sovereignty to which each individual is entitled, can never be too highly prized. It is that for which we have fought and bled: and we should cautiously guard against any precedents, however they may be immediately directed against those we hate, which may, in their consequences, render our title to this great privilege precarious. Here we may find the criterion to distinguish the genuine from the pretended whig. The man that would attack that right, in whatever shape, is an enemy to whigism.

If any oath, with retrospect to past conduct, were to be made the condition on which individuals who have resided within the British lines should hold their estates, we should immediately see that this proceeding would be tyrannical, and a violation of the Treaty; and yet, when the same mode is employed to divest that right, which ought to be deemed still more sacred, many of us are so infatuated as to overlook the mischief.

To say that the persons who will be affected by it, have previously forfeited that right, and that therefore nothing is taken away from them, is a begging of the question. How do we know who are the persons in this situation? If it be answered, This is the mode taken to ascertain it; the objection returns, 'Tis an improper mode, because it puts the most essential interests of the citizen upon a worse footing than we should be willing to tolerate where inferior interests were concerned; and because, to elude the Treaty, it substitutes to the established and legal mode of investigating crimes, and inflicting forfeitures, one that is unknown to the Constitution and repugnant to the genius of our law.

Much stress has been laid upon a couple of unmeaning words in the act, to enforce the penalties of which, the oath was invented. It is declared, that the persons who have done the several things enumerated in the act, shall be *ipso facto* disqualified. These words of potent sound, but of little substance, have been supposed to include wonderful effects. Let us see if we can give them any definite meaning. If a man commits murder, by the very act, *ipso facto*, he incurs the penalty of death; but before he can be hanged, we must inquire whether he has certainly committed the act. If a man has done any of those things which are declared sufficient to disqualify him from voting, though by the very act, *ipso facto*, he incurs the penalty of the law, yet, before he can be actually disqualified, we must inquire whether he has really done the act. From this we perceive the words *ipso facto* are mere expletives, which add nothing to the force or efficacy of the law.

It has been said, too, that an oath to determine the qualifications of electors, is a usual precaution in free governments; but we may challenge those who make the assertion, to show that retrospective oaths have ever been administered, requiring electors to swear that they have not been guilty of past offences. In all the violence of party which has, at different periods, agitated Great Britain, nothing of this kind has ever been adopted; but even where religious fanaticism has given an edge to political opposition, and in an undecided contest for the crown, they have never gone further than to prescribe oaths for testing present dispositions towards the government, on general principles, without retrospection to particular instances of past mal-conduct. The practical notions of legal liberty established in that country by a series of time, would make such an experiment too odious to be attempted by the government. Wise men have thought, that even there, they have carried the business of oaths to an exceptionable length: but we who pretend a purer zeal for liberty, in a decided contest, after a formal renunciation of claims by the adverse party, are for carrying the matter to a still more blamable extreme.

Men, whose judgments and intentions I respect, were the pro-

moters of the measure which has occasioned this digression: some from the contagion of popular opinion; others from the too strong impressions of momentary expedience; and a third class from the insensible bias of some *favorite pursuit.*

As to the fourth method in which the inhabitants of the Southern district may have lost their rights of citizenship, a dismemberment by Treaty, I have naturally been drawn, under the third head, into a discussion of this; and I trust have shown, to the full satisfaction of all candid men, that there is not a shadow of foundation to suppose that such a dismemberment is in the contemplation of the Treaty. A few short remarks shall conclude what I intend to say on this article.

It is a case without precedent, that a nation, in surrendering its acquisitions in war, to the State from which those acquisitions were made, should stipulate for the inhabitants of the country given up as for its *own* subjects. To do it, would be both useless and absurd: useless, because the country being surrendered, no reasonable advantage could be derived from retaining the allegiance of its inhabitants; absurd, because the district of territory surrendered, being given up as a part of the State to which the surrender is made, it would be contradictory, by the same act, to acknowledge the right of that State to the *part* given up, and yet to hold up a claim to the allegiance of its inhabitants.

The surrender (for the question does not relate to *original cessions*) carries in itself a decisive implication, that the inhabitants of the country surrendered, are the subjects of the power to which the surrender is made; and the presumption in this case is so strong, that nothing but the most positive and unequivocal exceptions in the Treaty would be sufficient to defeat it. Labored constructions to give the Treaty that complexion are inadmissible; for if there were room to doubt, the doubt, in just reasoning, should be interpreted against the position, that the inhabitants of the country surrendered were the subjects of the power by which the surrender was made.

The only additional remark I shall make on this head is this: Though we are under great obligations to our ministers

for the substance of the Treaty, which comprehends all the essential interests of this country; we must acknowledge that the language of it is, in many respects, defective and obscure. The true rule in this case is, not to have recourse to artificial and far-fetched interpretation, but to admit such meanings as the simple and popular import of the words conveys. When, therefore, it is said, in the sixth article, "that there shall be no future prosecutions commenced, nor confiscations made, nor damage done to person, liberty, or property, of any person or persons, on account of the part taken by them in the war;" as the natural and obvious scope of the words presents a full amnesty and indemnity for the future, we should not torture our imaginations to pervert them to a different sense.

It has been urged, in support of the doctrines under consideration, that every government has a right to take precautions for its own security, and to prescribe the terms on which its rights shall be enjoyed.

All this is true when understood with proper limitations; but, when rightly understood, will not be found to justify the conclusions which have been drawn from the premises.

In the first formation of a government, the society may multiply its precautions as much, and annex as many conditions to the enjoyment of its rights, as it shall judge expedient; but when it has once adopted a Constitution, that Constitution must be the measure of its discretion, in providing for its own safety, and in prescribing the conditions upon which its privileges are to be enjoyed. If the Constitution declares, that persons possessing certain qualifications shall be entitled to certain rights, while that Constitution remains in force, the government, which is the mere creature of the Constitution, can divest no citizen, who has the requisite qualifications, of his corresponding rights. It may indeed enact laws, and annex to the breach of them the penalty of forfeiture; but before that penalty can operate, the existence of the fact upon which it is to take place, must be ascertained in that mode which the Constitution and fundamental laws have provided. If trial by jury is the mode known and established by that Constitution and those laws, the persons

who administer the government, in deviating from that course, will be guilty of usurpation. If the Constitution declares, that the legislative power of the State shall be vested in one set of men and the judiciary power in another; and those who are appointed to act in a legislative capacity, undertake the office of judges: if, instead of confining themselves to passing laws, with proper sanctions to enforce their observance, they go out of their province to decide who are the violators of those laws, they subvert the Constitution and erect a tyranny. If the Constitution were even silent on particular points, those who are intrusted with its power, would be bound, in exercising their discretion, to consult and pursue its spirit, and to conform to the dictates of reason and equity: if, instead of this, they should undertake to declare whole classes of citizens disfranchised and excluded from the common rights of the society, without hearing, trial, examination, or proof; if, instead of waiting to take away the rights of citizenship from individuals till the State has convicted them of crimes by which they are to lose them, before the ordinary and regular tribunal, they institute an inquisition into men's consciences, and oblige them to give up their privileges, or undertake to interpret the law at the hazard of perjury; they expose themselves to the imputation of injustice and oppression.

The right of a government to prescribe the conditions on which its privileges shall be enjoyed, is bounded, with respect to those who are already included in the compact, by its original conditions: in admitting strangers it may add new ones; but it cannot, without a breach of the social compact, deprive those who have been once admitted, of their rights, unless for some declared cause of forfeiture, authenticated with the solemnities required by the subsisting compact.

The rights, too, of a republican government are to be modified and regulated by the principles of such a government. These principles dictate, that no man shall lose his rights without a hearing and conviction before the proper tribunal; that, previous to his disfranchisement, he shall have the full benefit of the laws to make his defence; and that his innocence shall be pre-

sumed till his guilt has been proved. These, with many other maxims, never to be forgotten in any but tyrannical governments, oppose the aims of those who quarrel with the principles of Phocion.

Cases, indeed, of extreme necessity, are exceptions to all general rules; but these only exist when it is manifest the safety of the community is in imminent danger. Speculations of possible danger never can be justifying causes of departures from principles on which, in the ordinary course of things, all private security depends; from principles which constitute the essential distinction between free and arbitrary governments.

When the advocates for legislative discriminations are driven from one subterfuge to another, their last resting-place is, that this is a new case, the case of a Revolution. Your principles are all right, say they, in the ordinary course of society; but they do not apply to a situation like ours. This is opening a wilderness, through all the labyrinths of which it is impossible to pursue them. The answer to this must be, that there are principles eternally true, and which apply to all situations, such as those that have been already enumerated; that we are not now in the midst of a Revolution, but have happily brought it to a successful issue; that we have a Constitution formed as a rule of conduct; that the frame of our government is determined, and the general principles of it settled; that we have taken our station among nations; have claimed the benefit of the laws which regulate them, and must, in our turn, be bound by the same laws; that those eternal principles of social justice forbid the inflicting punishment upon citizens by an abridgment of rights, or in any other manner, without conviction of some specific offence by regular trial and condemnation; that the Constitution we have formed, makes the trial by jury the only proper mode of ascertaining the delinquencies of individuals; that legislative discriminations to supersede the necessity of inquiry and proof, would be a usurpation on the judiciary powers of the government, and a renunciation of all the maxims of civil liberty; that, by the laws of nations and the rules of justice, we are bound to observe the engagements entered into on our behalf, by that

power which is invested with the constitutional prerogative of treaty; and that the Treaty we have made, in its genuine sense, ties up the hands of government, from any species of future prosecution or punishment, on account of the part taken by individuals in the war.

Among the extravagancies with which these prolific times abound, we hear it often said, that the Constitution, being the creature of the people, their sense with respect to any measure, if it even stand in opposition to the Constitution, will sanctify and make it right.

Happily for us in this country, the position is not to be controverted, that the Constitution is the creature of the people; but it does not follow that they are not bound by it, while they suffer it to continue in force; nor does it follow that the Legislature, which is, on the other hand, a creature of the Constitution, can depart from it, on any presumption of the contrary sense of the people.

The Constitution is the compact made between the society at large and each individual. The society, therefore, cannot, without breach of faith and injustice, refuse to any individual a single advantage which he derives under that compact, no more than one man can refuse to perform his agreement with another. If the community have good reasons for abrogating the old compact and establishing a new one, it undoubtedly has a right to do it; but until the compact is dissolved with the same solemnity and certainty with which it was made, the society, as well as individuals, are bound by it.

All the authority of the Legislature is delegated to them under the Constitution; their rights and powers are there defined: if they exceed them, it is a treasonable usurpation upon the power and majesty of the people: and by the same rule that they may take away from a single individual the rights he claims under the Constitution, they may erect themselves into perpetual dictators. The sense of the people, if urged in justification of the measure, must be considered as a mere pretext; for that sense cannot appear to them in a form so explicit and authoritative as the Constitution under which they act; and if it could

appear with equal authenticity, it could only bind when it had been preceded by a declared change in the form of government.

The contrary doctrine serves to undermine all those rules by which individuals can know their duties and their rights, and to convert the government into a government of *will*, not of *laws*.

There is only one light, on Mentor's plan, in which this subject remains to be considered; the danger to the government from suffering persons to reside among us who have an aversion to our Constitution; either by their becoming auxiliaries to future attempts of the British nation to recover their lost authority, or by their contributing to corrupt the principles and change the form of our government.

My observations on this subject in my former letter, I believe, remain unshaken by what Mentor has opposed to them. I shall, however, add a few others.

The restoration of British authority in this country is too chimerical to be believed even by Mentor himself; though he makes some faint essays to induce the supposition.

Why did Great Britain make peace with America? Because the necessity of her affairs compelled her to it. In what did this necessity consist? In every species of embarrassment and disorder that a nation could experience. Her public debt had almost arrived at that point, when the expenses of a peace establishment were nearly equal to all the revenues they were able to extract from exhausting the sources of taxation. Had they carried on the war till they had exceeded this point, a bankruptcy would have been the inevitable consequence. We perceive, as it is, the great difficulties that are acknowledged by every succession of ministers, in devising means to retrieve the affairs of the nation.

The distractions of the government, arising from those embarrassments, are scarcely paralleled in any period of British history. Almost every sitting of Parliament is a signal of a change of ministry. The King at variance with his ministers; the ministers unsupported by Parliament; the Lords disagreeing with the Commons; the nation execrating the King, Ministers,

Lords and Commons: all these are symptoms of a vital malady in the present state of the nation.

Externally the scene is not brighter. The affairs of the East India settlements are in the most perplexing confusion; and Ireland seems to be ready to dismember itself from the British empire.

It may be said that these are temporary mischiefs, which may be succeeded by greater tranquillity, prosperity, and power. The future situation of Great Britain is a problem which the wisest man cannot solve. In all appearance, it will be a considerable time before she can recover from the pressure of the evils under which she now labors, to be in a condition to form enterprises against others. When that period may arrive, our strength and resources will have greatly increased; the habits of men attached to her will have worn out: and it is visionary to suppose that she will then entertain a disposition to renew her attempts upon a country, increased in strength and resources, exerting its forces under an established Constitution, fortified by foreign alliances, which her acknowledged independence will at all times command; when she reflects that that country, in the tumult of a Revolution, and in a state of comparative impotence, baffled all her efforts in the zenith of her power.

To an enlightened mind it will be sufficient to say, upon this subject, that, independent of our own means of repelling enterprises against us, Europe has been taught, by this Revolution, to estimate the danger to itself of a union of the two countries under the same government, in too striking a manner ever to permit the reunion, or tolerate the attempts of Great Britain towards it.

The danger, from a corruption of the principles of our government, is more plausible but not more solid. It is an axiom, that governments form manners, as well as manners form governments. The body of the people of this State are too firmly attached to the democracy, to permit the principles of a small number to give a different tone to that spirit. The present law of inheritance, making an equal division among the children of the parents' property, will soon melt down those great estates,

which, if they continued, might favor the power of the *few*. The number of the disaffected, who are so from speculative notions of government, is small. The great majority of those who took part against us, did it from accident, from the dread of the British power, and from the influence of others to whom they had been accustomed to look up. Most of the men who had that kind of influence are already gone: the residue and their adherents, must be carried along by the torrent, and, with very few exceptions, if the government is mild and just, will soon come to view it with approbation and attachment.

Either the number of malcontents in the State is small or it is considerable. If small, there is no room for apprehension; if great, then opposition to the government is only to be overcome by making it their interest to be its friends, or by extirpating them from the community. A middle line, which will betray a spirit of persecution in the government, but will only extend its operation to a small number, will answer no other purpose than to disable a few, and inflame and rivet the prejudices of the rest, by exhibiting the temper of government in a harsh and unconciliating light. We shall then, in truth, have a considerable faction in the State ready for all innovations.

The impracticability of such a general extirpation, suggests the opposite conduct as the only proper one.

There is a bigotry in politics as well as in religions, equally pernicious in both. The zealots, of either description, are ignorant of the advantage of a spirit of toleration. It was a long time before the kingdoms of Europe were convinced of the folly of persecution with respect to those who were schismatics from the established church. The cry was, These men will be equally the disturbers of the Hierarchy and of the State. While some kingdoms were impoverishing and depopulating themselves by their severities to the non-conformists, their wiser neighbors were reaping the fruits of their folly, and augmenting their own numbers, industry, and wealth, by receiving, with open arms, the persecuted fugitives. Time and experience have taught a different lesson: and there is not an enlightened nation which does

not now acknowledge the force of this truth, that whatever speculative notions of religion may be entertained, men will not, on that account, be enemies to a government that affords them protection and security. The same spirit of toleration in politics, and for the same reasons, has made great progress among mankind, of which the history of most modern revolutions is a proof. Unhappily for this State, there are some among us who possess too much influence; that have motives of personal ambition and interest to shut their minds against the entrance of that moderation which the real welfare of the community teaches.

Our neighbors seem to be in a disposition to benefit by our mistakes; and the time will not be very remote, if the schemes of some men can prevail, when we shall be ashamed of our own blindness, and heap infamy upon its promoters.

It is remarkable, though not extraordinary, that those characters, throughout the States, who have been principally instrumental in the Revolution, are the most opposed to persecuting measures. Were it proper, I might trace the truth of this remark from that character which has been the first, in conspicuousness, through the several gradations of those, with very few exceptions, who, either in the civil or military line, have borne a distinguished part. On the other hand, I might point out men who were reluctantly dragged into taking a part in the Revolution; others who were furious zealots in the commencement of the dispute, that were not heard of to any public purpose, during the progress of it; and others who were fluctuating, according to the tide of good or ill-fortune; all of whom now join in the cry with a third class, more imprudent, but much more respectable, and endeavor, by the loudness of their clamors, to atone for their past delinquencies.

As to Mentor's commercial reveries, I shall decline bestowing many remarks upon them; not only because they are not immediately connected with the general subject, but because there is little danger of their making *any* proselytes, while men are convinced that the prosperity of the national commerce depends as much upon the extent of its capital as that of an individual;

that to confine trade to any particular description of men, in exclusion of others who have better means of carrying it on, would be, if practicable, to make the people at large tributary to the avarice of a small number who were to have the benefit of the monopoly; that, in the present situation of things, a very small proportion of those intended to be benefited, who have the means to avail themselves of the advantage, would reap all its fruits, even at the expense, and to the prejudice, of the greater part of those who were meant to be favored; that the fewer hands trade is confined to, the less will be its activity, and the less the degree of employment afforded to other classes of the community; and, in short, that all monopolies, exclusions, and discriminations, in matters of traffic, are pernicious and absurd.

Since writing the foregoing, I have learned that a bill is depending before the House of Assembly, for putting various descriptions of persons out of the protection of government. I have too much respect for the wisdom and virtue of that body, to suppose a measure of this nature can obtain the sanction of the majority. What is the plain language of the proposal? There are certain persons who are obnoxious to public resentment. The Treaty forbids us to proceed against them in a legal way. Let us, therefore, by an unconstitutional exertion of power evade the Treaty, however dangerous the precedent to the liberty of the subject, and however derogatory to the honor of the nation. By the Treaty we stipulate, that *no person* or *persons* shall *suffer*, on account of the part they may have taken in the war, any damage to person, liberty, or property; and yet, by taking away the protection of government, which they would enjoy under the subsisting laws, we leave them to *suffer* whatever injury to either, the rashness of individuals who are the *subjects* of the State, may think proper to inflict. What would this be, but to imitate the conduct of a certain General, who, having promised that he would not spill the blood of some prisoners who were about to surrender by capitulation, after he had them in his power had them all strangled to death? Words, in every contract, are to be construed so as to give them a reasonable

effect. When it is stipulated that a man shall not suffer in person, liberty, or property, it does not merely mean, that the State will not inflict any positive punishment upon him, but also that it will afford him protection and security from injury. The very *letter*, as well as the *spirit*, of the stipulation, imports this. He *shall not suffer* any damage, are the words of the Treaty.

The scheme of putting men out of the protection of the law, is calculated to transfer the sceptre from the hands of government to those of individuals; it is to arm one part of the community against another; it is to *enact* a civil war. If, unhappily for the State, this plan could succeed, no man can foresee the end of it. But the guardians of the rights of the community will certainly, on mature deliberation, reject it.

Feeling for the honor of the State, if expulsions must take place, if the Constitution and the faith of the United States must be sacrificed to a supposed political expedience, I had much rather see an open avowal of the principles upon which we acted, than that we should clothe the design with a veil of artifice and disguise, too thin not to be penetrated by the most ordinary eye.

I shall now, with a few general reflections, conclude.

Those who are at present intrusted with power, in all these infant Republics, hold the most sacred deposit that ever was confided to human hands. 'Tis with governments as with individuals; first impressions and early habits give a lasting bias to the temper and character. Our governments, hitherto, have no habits. How important to the happiness, not of America alone, but of mankind, that they should acquire good ones!

If we set out with justice, moderation, liberality, and a scrupulous regard to the Constitution, the government will acquire a spirit and tone productive of permanent blessings to the community. If, on the contrary, the public councils are guided by humor, passion, and prejudice; if from resentment to individuals, or a dread of partial inconveniences, the Constitution is slighted, or explained away, upon every frivolous pretext, the future spirit of government will be feeble, distracted, and arbitrary. The rights of the subject will be the sport of every party

vicissitude. There will be no settled rule of conduct, but every thing will fluctuate with the alternate prevalency of contending factions.

The world has its eye upon America. The noble struggle we have made in the cause of liberty, has occasioned a kind of revolution in human sentiment. The influence of our example has penetrated the gloomy regions of despotism, and has pointed the way to inquiries which may shake it to its deepest foundations. Men begin to ask, every where, Who is this tyrant that dares to build his greatness on our misery and degradation? What commission has he to sacrifice millions to the wanton appetites of himself and a few minions that surround his throne?

To ripen inquiry into action, it remains for us to justify the Revolution by its fruits.

If the consequences prove that we really have asserted the cause of human happiness, what may not be expected from so illustrious an example? In a greater or less degree, the world will bless and imitate.

But if experience, in this instance, verifies the lesson long taught by the enemies of liberty, that the bulk of mankind are not fit to govern themselves; that they must have a master, and were only made for the rein and the spur; we shall then see the final triumph of despotism over liberty: the advocates of the latter must acknowledge it to be an *ignis fatuus*, and abandon the pursuit. With the greatest advantages for promoting it that ever a people had, we shall have betrayed the cause of human nature.

Let those in whose hands it is placed, pause for a moment, and contemplate, with an eye of reverence, the vast trust committed to them. Let them retire into their own bosoms and examine the motives which there prevail. Let them ask themselves this solemn question: Is the sacrifice of a few mistaken or criminal individuals an object worthy of the shifts to which we are reduced, to evade the Constitution and the national engagements? Then let them review the arguments that have been offered with dispassionate candor; and if they even doubt the propriety of the measures they may be about to adopt, let them remember,

that, in a doubtful case, the Constitution ought never to be hazarded without extreme necessity.

PHOCION.

CONSTITUTION OF THE BANK OF NEW-YORK.

Art. 1. That the Bank shall be called by the name and title of the Bank of New-York.

Art. 2. That the capital stock consist of five hundred thousand dollars in gold or silver, divided into one thousand shares of five hundred dollars each share; and that a majority of all the directors may, at their discretion, open new subscriptions for increasing the capital stock, when they shall judge it for the interest of the Bank so to do, provided the said new subscriptions do not exceed the sum of five hundred thousand dollars.

Art. 3. That thirteen directors be annually chosen by a majority of votes, who are to have the sole conduct and management of the Bank. At the first general election, the president and cashier are to be elected by the subscribers to the Bank, but for ever afterwards the thirteen directors are to choose a president from among themselves; and the cashier, as well as every other person employed in the Bank, is to be appointed and paid by them, and be under their immediate control.

Art. 4. That the first election be on the 15th day of March, 1784; that the next general election for thirteen directors shall be on the second Monday in May, 1785; and so continue yearly, and every year, but in case of any vacancy in the direction by death, resignation, or otherwise, public notice shall be given within one week after such an event, that the vacancy may be filled; the election to be within fourteen days after such notice.

Art. 5. That every holder of one or more shares, to the number of four, shall have one vote for each share. A subscriber of six shares shall have five votes; eight shares, six votes; and ten shares, seven votes; and one vote for every five shares above ten.

Art. 6. That no stockholder, after the first election, shall be entitled to vote, unless such person has possessed the stock three months previous to the day fixed for an election of directors, or any other general purpose. And if any stockholder (who shall have been a resident in this State at least twelve months immediately preceding such election) should be absent, he shall be entitled to vote by proxy, properly appointed; but in no other case shall any vote be admitted by proxy.

Art. 7. That no person shall be eligible to serve in the office of director unless he be a stockholder.

Art. 8. That the board of directors determine the manner of doing business, and the rules and forms to be pursued; appoint and employ the various clerks and servants, which they may find necessary, and dispose of the money and credit of the Bank for the interest and benefit of the proprietors; but they are not to employ the money or credit of the Bank in the drawing or negotiating of any foreign bill, or bills of exchange, or advance a loan to any foreign power whatever.

Art. 9. That if at any time it shall be the opinion of a majority of the directors that any of their body are guilty of neglect of duty, or any mal-practice, whereby the interest of the Bank is or may be affected, such majority of the directors, with or without the consent of the president, may advertise for a general meeting of the stockholders, to lay before them a complaint of such neglect of duty, or breach of trust; and if it appears to the stockholders to be well founded, such director or directors may be removed by a majority of votes.

Art. 10. That if any of the directors shall convert any of the money or property of the Bank to his own particular use, or be guilty of fraud or embezzlement, he shall forfeit his whole share of stock to the company and be expelled the direction by a majority of all the directors, and thereby rendered incapable of ever serving again in that office.

Art. 11. That no president or director shall receive any other emolument for his attendance on the duties of the office than such as shall be fixed and agreed to by a majority of votes at a general election.

Art. 12. That there shall be a meeting of the directors quarterly, for the purpose of regulating the affairs of the Bank, and not less than seven shall constitute a board, who may adjourn from time to time, and the president if necessary may call a meeting of the directors at any intermediate time; at every meeting of the directors all questions are to be decided by a majority of votes.

Art. 13. That the president or a majority of the directors shall have power to call a general meeting of the stockholders by an advertisement in the public papers, whenever it appears to them there is urgent occasion.

Art. 14. That the cashier and every principal clerk do give a security for their trust to such an amount, as a majority of all the directors shall require.

Art. 15. That all notes issued by the Bank shall be signed by the president for the time being, or any director who may be fixed upon by the board for that purpose, and countersigned by the cashier, or in his absence by a clerk to be appointed by the directors.

Art. 16. That no stockholder shall be accountable to any individual or the public for money lodged in the Bank for a greater sum than the amount of his stock.

Art. 17. That such a dividend on the profits of the Bank as a majority of all the directors shall determine to make, shall be declared at least fourteen days previous to the general election in May 1785; and that all subsequent dividends shall be made half yearly.

Art. 18. That all shares shall be transferable, such transfer to be made by the proprietor or proprietors, or his, her, or their lawful attorney, in books kept at the Bank for that purpose, which books shall be always kept open at the usual office hours, except on particular days previous to the declaring a dividend of which due notice shall be given.

Art. 19. That the president and directors shall petition the Legislature to incorporate the subscribers or stockholders under the name and title of the president, directors and company of the Bank of New-York, and to pass laws for inflicting the most exemplary punishment on those who may commit fraud or

embezzlement; and also to punish the counterfeiters of Bank notes and checks in the like exemplary manner, with such other clauses in the act as they shall judge necessary and proper for the security of the stockholders and the public.

Art. 20. That this constitution shall be fairly transcribed upon parchment and remain at the Bank; the president and directors when chosen, and prior to the opening of the Bank, shall severally sign and seal the same, and take an oath or affirmation before a magistrate, that he will to the best of his knowledge and abilities conduct the business of the Bank for the interest and benefit of the proprietors and agreeable to the true intent and meaning of this constitution, which oath or affirmation shall also be taken by every future director when chosen, and before he enters upon the execution of his trust.

PETITION AS TO REVENUE SYSTEM.

New-York, 1786.

To the Honorable the Legislature of the State of New-York:—

The Petition of the Subscribers, Inhabitants of the City of New-York, respectfully showeth,

That your petitioners, anxious for the welfare of the community of which they are members, have seen with peculiar regret the delay which has hitherto attended the adoption of the Revenue System recommended by Congress in the resolutions of the eighteenth of April, 1783.

That the anxiety which your petitioners have all along felt from motives of a more general nature is, at the present juncture, increased by this particular consideration, that the State of New-York now stands almost alone in a non-compliance with a measure, in which the sentiments and wishes of the Union at large appear to unite, and by a further delay may render itself responsible for consequences too serious not to affect every considerate man.

That in the opinion of your memorialists, all the considerations important to a State, all the motives of public honor, faith, reputation, interest, and safety, conspire to urge a compliance with these resolutions.

That government without revenue cannot subsist. That the mode provided in the Confederation for supplying the Treasury of the United States has, on experiment, been found inadequate.

That the system proposed will, in all probability, prove much more efficacious, and is, in other respects, as unexceptionable as the various circumstances and interests of these States will permit.

That any objection to it as a measure not warranted by the Confederation, is refuted by the thirteenth article, which provides that alterations may be made, if agreed to by Congress and confirmed by the Legislature of each State; and the conduct of this State itself in adopting the proposed change of the Eighth Article, is a precedent in which we find the principle reduced to practice, and affords a complete answer to every pretence of the Revenue System being unconstitutional.

That as to danger in vesting the United States with these funds, your memorialists consider their interests and liberties as not less safe in the hands of their fellow-citizens delegated to represent them for one year in Congress, than in the hands of their fellow-citizens delegated to represent them for one year or four years in the Senate and Assembly of this State.

That government implies trust; and every government must be trusted so far as is necessary to enable it to attain the ends for which it is instituted; without which insult and oppression from abroad, confusion and convulsion at home.

CINCINNATI.

New-York, July 6, 1786.

The Committee to whom was referred the proceedings of the society of the Cincinnati, at their last general meeting, beg leave to report, that they have attentively considered the alterations proposed at that meeting to be made in the original constitution of the society; and though they highly approve the motives which dictated those alterations, they are of opinion it would be inexpedient to adopt them, and this chiefly on the two following accounts.

"First,—Because the institution, as proposed to be altered, would contain in itself no certain provision for the continuance of the society beyond the lives of the present members; this point being left to the regulation of charters, which may never be obtained, and which, in the opinion of this Committee, so far as affects this object, ought never to be granted, since the dangers apprehended from the institution could then only cease to be *imaginary*, when it should receive the *sanction* of a *legal* establishment. The utmost the society ought to wish or ask from the several legislatures is, to enable it to appoint trustees to hold its property, for the charitable purposes to which it is destined. Second,—Because, by a fundamental article, it obliges the society of each State to lend its funds to the State; a provision which would be improper, for two reasons; one, that in many cases the society might be able to dispose of its funds to much greater advantage; the other, that the State might not always choose to borrow from the society.

"That while the Committee entertain this opinion with respect to the proposed alterations, they are at the same time equally of opinion, that some alterations in the original constitution will be proper, as well in deference to the sense of many of our fellow-citizens, as in conformity to the true spirit of the institution itself. The alterations they have in view respect princi-

pally the duration or succession of the society, and the distinction between honorary and regular members. As to the first, the provision intended to be made appears to them to be expressed in terms not sufficiently explicit; and as far as it may intend an *hereditary succession* by right of primogeniture, is liable to this objection—*that it refers to birth what ought to belong to merit only:* a principle inconsistent with the genius of a society founded on friendship and patriotism. As to the second, the distinction holds up an odious difference between men who have served their country in one way, and those who have served it in another, and improper in a society where the character of patriot ought to be an equal title to all its members.

The Committee, however, decline proposing any specific substitute for the parts of the original constitution, which appear to them exceptionable; as they are of opinion, any alterations necessary to be made, can only be digested in a general meeting of the society, specially authorized to agree upon, and finally establish, those alterations. With a view to this, they beg leave to recommend that a circular letter be written from the society, to the different State societies, suggesting the expediency of instructing, and empowering their delegates, at the next general meeting, to concur in such alterations as may appear to that meeting proper, after a full communication of what shall be found to be the sense of the several societies.

ADDRESS OF THE ANNAPOLIS CONVENTION.

1786.

"To the Honorable the Legislatures of Virginia, Delaware, Pennsylvania, and New-York.

"The commissioners from the said States respectively, assembled at Annapolis, humbly beg leave to report, That pursuant to their several appointments, they met at Annapolis, in the State of Maryland, on the eleventh day of September, instant,

and having proceeded to a communication of their powers, they found that the States of New-York, Pennsylvania, and Virginia, had in substance, and nearly in the same terms, authorized their respective commissioners to meet such commissioners as were or might be appointed by the other States in the Union, at such time and place as should be agreed upon by the said commissioners, to take into consideration the trade and commerce of the United States, to consider how far a uniform system in their commercial intercourse and regulations might be necessary to their common interest and permanent harmony, and to report to the several States such an act relative to this great object, as, when unanimously ratified by them, would enable the United States in Congress assembled effectually to provide for the same.

"That the State of Delaware had given similar powers to their commissioners; with this difference only, that the act to be framed in virtue of these powers, is required to be reported 'to the United States in Congress assembled, to be agreed to by them, and confirmed by the Legislature of every State.'

"That the State of New Jersey had enlarged the object of their appointment, empowering their commissioners 'to consider how far a uniform system in their commercial regulations, and *other* important matters, might be necessary to the common interest and permanent harmony of the several States; and to report such an act on the subject, as, when ratified by them, would enable the United States in Congress assembled effectually to provide for the exigencies of the Union.'

"That appointments of commissioners have also been made by the States of New Hampshire, Massachusetts, Rhode Island, and North Carolina, none of whom, however, have attended. But that no information has been received by your commissioners of any appointment having been made by the States of Connecticut, Maryland, South Carolina, or Georgia. That the express terms of the powers to your commissioners supposing a deputation from all the States, and having for their object the trade and commerce of the United States, your commissioners did not conceive it advisable to proceed to the business of their

mission under the circumstances of so partial and defective a representation.

"Deeply impressed, however, with the magnitude and importance of the object confided to them on this occasion, your commissioners cannot forbear to indulge an expression of their earnest and unanimous wish that speedy measures may be taken to effect a general meeting of the States in a future Convention for the same, and such other purposes, as the situation of public affairs may be found to require.

"If in expressing this wish, or intimating any further sentiment, your commissioners should seem to exceed the strict bounds of their appointment, they entertain a full confidence that a conduct dictated by an anxiety for the welfare of the United States will not fail to receive a favorable construction. In this persuasion, your commissioners submit an opinion that the idea of extending the powers of their deputies to other subjects than those of commerce, which had been adopted by the State of New Jersey, was an improvement on the original plan, and will deserve to be incorporated into that of a future Convention. They are the more naturally led to this conclusion, as, in the course of their reflections on the subject, they have been induced to think that the power of regulating trade is of such comprehensive extent, and will enter so far into the general system of the Federal Government, that to give it efficacy, and to obviate questions and doubts concerning its precise nature and limits, may require a correspondent adjustment of other parts of the Federal system. That there are important defects in the system of the Federal Government, is acknowledged by the Acts of all those States which have concurred in the present meeting; that the defects, upon a closer examination, may be found greater and more numerous than even these acts imply, is at least so far probable, from the embarrassments which characterize the present state of our national affairs foreign and domestic, as may reasonably be supposed to merit a deliberate and candid discussion in some mode which will unite the sentiments and councils of all the States.

"In the choice of the mode, your commissioners are of the

opinion that a CONVENTION of deputies from the different States for the special and sole purpose of entering into this investigation, and digesting a plan of supplying such defects as may be discovered to exist, will be entitled to a preference, from considerations which will occur without being particularized. Your commissioners decline an enumeration of those national circumstances on which their opinion respecting the propriety of a future Convention with those enlarged powers is founded, as it would be an intrusion of facts and observations, most of which have been frequently the subject of public discussion, and none of which can have escaped the penetration of those to whom they would in this instance be addressed.

"They are, however, of a nature so serious, as, in the view of your commissioners, to render the situation of the United States delicate and critical, calling for an exertion of the united virtue and wisdom of all the members of the Confederacy. Under this impression your commissioners, with the most respectful deference, beg leave to suggest their unanimous conviction, that it may effectually tend to advance the interests of the Union, if the States by which they have been respectively delegated would concur themselves, and use their endeavors to procure the concurrence of the other States, in the appointment of commissioners to meet at Philadelphia on the the second Monday in May next, to take into consideration the situation of the United States, to devise such further provisions as shall appear to them necessary to render the Constitution of the Federal Government *adequate to the exigencies of the Union*, and to report such an act for that purpose to the United States in Congress assembled, as, when agreed to by them and afterwards confirmed by the Legislature of every State, will effectually provide for the same.

"Though your commissioners could not with propriety address these observations and sentiments to any but the States they have the honor to represent, they have nevertheless concluded, from motives of respect, to transmit copies of this report to the United States in Congress assembled, and to the Executives of the other States.

LEGISLATURE OF NEW-YORK.

RESOLUTIONS.

February 17, 1787.

Resolved, if the Hon. the Senate concur, that the Delegates of this State in the Congress of the United States of America be, and they are hereby, instructed to move in Congress for an Act recommending to the States composing the Union, that a Convention of Representatives from the said States respectively, be held and meet at a time and place, to be mentioned in such recommendation, for the purpose of revising the articles of Confederation and Perpetual Union between the United States of America, by such alterations and amendments as a majority of the Representatives in such Convention shall judge proper and necessary to render them adequate to the preservation and support of the Union.

February 26, 1787.

Resolved, (if the Honorable the Senate concur herein,) that five Delegates be appointed on the part of this State to meet such Delegates as may be appointed on the part of the other States respectively, on the second Monday of May next, at Philadelphia, for the sole and express purpose of revising the Articles of Confederation, and reporting to Congress and to the several Legislatures, such alterations and provisions therein as shall, when agreed to in Congress, and confirmed by the several States, render the Federal Constitution adequate to the exigencies of Government, and the preservation of the Union; and that, in case of such concurrence, the two Houses of the Legislature will meet on Thursday next, at such place as the Honorable the Senate shall think proper, for the purpose of electing the said delegates by joint ballot.

An ACT *to institute an* UNIVERSITY *within this State, and for other purposes therein mentioned.* Passed 13th April, 1787.

Whereas, by two Acts of the Legislature of the State of New-York, the one passed the first day of May, and the other the twenty-sixth day of November, one thousand seven hundred and eighty-four, an University is instituted within this State, in the manner, and with the powers, therein specified. And whereas, from the representation of the regents of the said University, it appears that there are defects in the constitution of the said University which call for alterations and amendments. And whereas, a number of Acts on the same subject, amending, correcting, and altering former ones, tend to render the same less intelligible and easy to be understood: wherefore, to the end that the constitution of the said University may be properly amended, and appear entire in one law, it will be expedient to delineate and establish the same in this, and repeal all former Acts relative thereto.

I. *Be it enacted by the people of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same,* That an University be and is hereby instituted within this State, to be called and known by the name or style of, The Regents of the University of the State of New-York. That the said regents shall always be twenty-one in number, of which the Governor and Lieutenant-Governor of the State, for the time being, shall always, in virtue of their offices, be two. That the Governor and Lieutenant-Governor, and John Rogers, Egbert Benson, Philip Schuyler, Ezra L'Hommedieu, Nathan Carr, Peter Sylvester, John Jay, Dirck Romeyn, James Livingston, Ebenezer Russel, Lewis Morris, Matthew Clarkson, Benjamin Moore, Eilardus Westerlo, Andrew King, William Lynn, Jonathan G. Tompkins, John M'Donald, and Frederick William de Steuben, shall be, and hereby are, appointed the present regents; and that they and all future regents shall continue in place during the pleasure of the Legislature. That all vacancies in the regency which may happen by death, or removal, or resignation, shall, from time to time, be supplied by the Legislature, in the

manner in which Delegates to Congress are appointed. That the said regents, as soon as may be after the passing of this Act, shall convene at such time and place as the Governor shall appoint, and by plurality of voices, by ballot, choose a chancellor and vice-chancellor, to continue in office during the pleasure of the said regents. That the said chancellor, or, in his absence from the said meeting, the vice-chancellor, or, in case both be absent, then the senior regent present (and whose seniority shall be decided by the order in which the regents are named or appointed) shall preside; and, in case of division, have a casting voice at all meetings of the said regents. That all the meetings of the said regents, after the first, shall be held at such time and place as the chancellor, or in case of his death, absence from the State, or resignation, the vice-chancellor, or, in case of the death, absence from the State, or resignation of both of them, then, at such time and place as the senior regent present in the State shall appoint.

And it shall be the duty of the chancellor, vice-chancellor, or senior regent, as the case, in virtue of the above contingencies, may be, to order and call a meeting of the said regents, whenever and as often as three regents shall, in writing, apply for and request the same; such order or call to be published in one or more of the public newspapers in the city of New-York, at least ten days prior to such meeting.

And further, that any eight of the said regents, meeting at the time and place so ordered, shall be a quorum, and be en abled to transact and do the business which, by this act, they shall be authorized or directed to do and transact. That the said University shall be, and hereby is, incorporated, and shall be known by the name of The Regents of the University of the State of New-York, and by that name shall have perpetual succession, and power to sue and be sued, to hold property, real and personal, to the amount of the annual income of forty thousand bushels of wheat; to buy and to sell, and otherwise lawfully dispose of lands and chattels; to make and use a common seal, and to alter the same at pleasure.

II. *And be it further enacted by the authority aforesaid*, That the

said corporation shall appoint, by ballot, a treasurer and a secretary, to continue in office during the pleasure of the corporation. That the treasurer shall keep fair and true accounts of all moneys by him received and paid out; and that the secretary shall keep a fair journal of the meetings and proceedings of the corporation, in which the yeas and nays on all questions shall be entered, if required, by any one of the regents present. And to all the books and papers of the corporation, every regent shall always have access, and be permitted to take copies of them.

III. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for the said regents, and they are hereby authorized and required, to visit and inspect all the colleges, academies, and schools, which are or may be established in this State; examine into the state and system of education and discipline therein, and make a yearly report thereof to the Legislature; and also to visit every college in this State once a year, by themselves or by their committees, and yearly to report the state of the same to the Legislature; and to make such by-laws and ordinances, not inconsistent with the constitution and laws of the State, as they may judge most expedient for the accomplishment of the trust hereby reposed in them.

And in case the trustees of the said colleges, or any of them, shall leave the office of president of the college, or the trustees of any academy shall leave the office or place of principal of the academy vacant, for the space of one year, it shall, in all such cases, be lawful for the regents, unless a reasonable cause shall be assigned for such delay, to their satisfaction, to fill up such vacancies; and the persons by them appointed shall continue in office during the pleasure of the regents, and shall respectively be received by the college or academy to which they may be appointed, and shall have all the powers, and exactly the same salary, emoluments, and privileges, as his next immediate predecessor in office enjoyed, if any predecessor he had; if not, then such salary as the regents shall direct, to be paid by the trustees, who shall, out of the funds or estate of their college or academy, be compellable, by the said president or principal, to pay the same.

IV. *And be it further enacted by the authority aforesaid*, That the said regents shall have the right of conferring, by diplomas, under their common seal, on any person or persons whom they may think worthy thereof, all such degree or degrees, above or beyond those of bachelor or master of arts, as are known to, and usually granted by, any university or college in Europe.

V. *And be it further enacted, by the authority aforesaid*, That it shall and may be lawful to and for the said regents, from time to time, to apply such part of their estate and funds, in such manner as they may think most conducive to the promotion of literature, and the advancement of useful knowledge within this State. Provided always, that where grants shall be made to them, for certain uses and purposes therein expressed and declared, the same shall not be applied, either in the whole or in part, to any other uses.

VI. *And be it further enacted by the authority aforesaid*, That the regents shall anually meet on the second Thursday next after the Senate and Assembly, at the annual session of the Legislature, shall have formed a quorum respectively, and at the assembly chamber, immediately after the Assembly shall have adjourned. That the said regents, at such meetings, and all others, may adjourn from time to time, not exceeding ten days at any one time.

VII. *And be it further enacted by the authority aforesaid*, That any citizen or citizens, or bodies corporate, within this State, being minded to found a college at any place within the same, he or they shall, in writing, make known to the regents, the place where, the plan on which, and the funds with which it is intended to found and provide for the same, and who are proposed for the first trustees; and in case the regents shall approve thereof, then they shall declare their approbation, by an instrument under their common seal, and allow a convenient time for completing the same. And if at the expiration of the said time, it shall appear to the satisfaction of the regents, that the said plan and propositions are fully executed, then they shall, by act under their common seal, declare, that the said college, to be named as the founders shall signify, and with such trustees, not exceeding twenty-four, nor less than ten, as they shall name,

shall forthwith become incorporated, and shall have perpetual succession, and enjoy all the corporate rights and privileges enjoyed by Columbia College, hereinafter mentioned.

VIII. *And be it further enacted by the authority aforesaid*, That the charter heretofore granted to the governors of the college of the province of New-York, in the city of New-York, in America, dated the thirty-first day of October, in the year of our Lord one thousand seven hundred and fifty-four, shall be, and hereby is fully and absolutely ratified and confirmed, in all respects, except that the college thereby established, shall be henceforth called Columbia College: That the style of the said corporation shall be, The trustees of Columbia College, in the city of New-York; and that no persons shall be trustees of the same, in virtue of any offices, characters, or descriptions whatever; excepting also such clauses thereof as require the taking of oaths, and subscribing the declaration therein mentioned; and which render a person ineligible to the office of president of the college, on account of his religious tenets, and prescribe a form of public prayer to be used in the said college; and also excepting the clause thereof which provides, that the by-laws and ordinances to be made in pursuance thereof, should not be repugnant to the laws and statutes of that part of the kingdom of Great Britain, called England: except also, that in all cases where fifteen governors are required to constitute a quorum for the dispatch of business, thirteen trustees shall be sufficient. Provided, always, that the by-laws and ordinances to be made by the trustees of the said Columbia College, shall not be contrary to the constitution and laws of this State.

IX. *And be it further enacted by the authority aforesaid*, That James Duane, Samuel Provost, John H. Livingston, Richard Varick, Alexander Hamilton, John Mason, James Wilson, John Gano, Brockholst Livingston, Robert Harper, John Daniel Gross, Johann Christoff Kunze, Walter Livingston, Lewis A. Scott, Joseph Delaplaine, Leonard Lispenard, Abraham Beach, John Lawrence, John Rutherford, Morgan Lewis, John Cochran, Gershom Seixas, Charles McKnight, Thomas Jones, Malachi Treat, Samuel Bard, Nicholas Romeyn, Benjamin Kissam, and

Ebenezer Crosby, shall be and they are hereby constituted and declared to be the present trustees of Columbia College, in the city of New-York, and that when by the death or resignation or removal of any of the said trustees, the number of those trustees shall be reduced to twenty-four, then and from thenceforth the said twenty-four trustees shall be, and they hereby are declared and constituted trustees of the said Columbia College, in perpetual succession, according to the true intent and meaning of the said charter; and all vacancies thereafter shall be supplied in the manner thereby directed.

X. *And be it further enacted by the authority aforesaid*, That all and singular the power, authority, rights, privileges, franchises, and immunities, so heretofore granted to, and vested in the said governors of the college of the province of New-York, in the city of New-York, in America, by the said charter, excepting as before excepted, shall be, and the same hereby are granted to and vested in the trustees of Columbia College, in the city of New-York, and their successors for ever, as fully and effectually, to all intents and purposes, as if the same were herein particularly specified and expressed; and all and singular the lands, tenements, hereditaments, and real estate, goods, chattels, rents, annuities, moneys, books, and other property, whereof the said governors of the college of the province of New-York, in the city of New-York, in America, were seized, possessed, or entitled, under and in virtue of the said charter, or with which the regents of the said university were invested, under or by virtue of the said acts for the use or benefit of the said Columbia College, shall be and the same hereby are granted to and vested in the said trustees of Columbia College in the city of New-York, and their successors for ever for the sole use and benefit of the said college; and it shall and may be lawful to and for the said trustees, and their successors to grant, bargain, sell, demise, improve, and dispose of the same as to them shall seem meet. Provided, always, That the lands given and granted to the governors of the college of the province of New-York, in the city of New-York, in America, by the corporation heretofore styled, The rector and inhabitants of the city of New-York, in communion of the Church

of England, as by law established, on part whereof the said college is erected, shall not be granted for any greater estate, or in any other manner, than is limited by the said charter.

XI. *And be it further enacted by the authority aforesaid*, That when any special meeting of the trustees of the said college, shall be deemed necessary, it shall and may be lawful to and for the senior trustee of the said college, then in the city of New-York, and taking upon himself the exercise of the office (which seniority shall be determined according to the order in which the said trustees are named in this act, and shall be elected hereafter), and he is hereby authorized and required, on application for that purpose in writing, under the hands of any five or more of the said trustees, to appoint a time for such special meeting, in some convenient place within the said city, and to cause due notice thereof to be given in the manner directed by the said charter.

XII. And whereas academies for the instruction of youth in the languages, and other branches of useful learning, have been erected and instituted in different parts of this State, by the free and liberal benefactions of corporations, as well as individuals; and the regents of the university having represented that the appointment and incorporation of trustees for each of the said academies, with competent powers to manage the funds already appropriated, and the donations which may be made to such academies, and to superintend the morals and education of the scholars, and the conduct of the principal, masters and teachers, would greatly conduce to their security and prosperity;

Therefore be it further enacted by the authority aforesaid, That upon the application of the founders and benefactors of any academy now or hereafter to be erected or established within any of the cities or counties of this State, or as many of them as shall have contributed more than one half in value of the real and personal property and estate, collected or appropriated for the use and benefit thereof, by an instrument in writing under their hands and seals, to the regents of the university, expressing their request, that such academy should be incorporated, and be subject to the visitation of the regents nominating in such instrument the trustees, not more than twenty-four or less than twelve,

for such academy, and specifying the name by which the said trustees shall be called and distinguished; and whenever any such request shall be made to the said regents, they shall in every such case (if they conceive such academy calculated for the promotion of literature), by an instrument under their common seal, signify their approbation of the incorporation of the trustees of such academy named by the founders thereof, by the name mentioned in and by their said request in writing, which said request in writing, and instrument of approbation by the said regents, shall be recorded in the secretary's office of the State.

XIII. *And be it further enacted by the authority aforesaid*, That the trustees so constituted shall be the first trustees for the academy for which they shall be appointed, and immediately after recording the said request in writing, and instrument of approbation, shall be legally invested with all the real and personal estate appertaining to such academy, or in any wise given or granted for the use thereof; and the said trustees from the time of their appointment as aforesaid, and their successors for ever thereafter, shall be a body corporate and politic, in deed, fact and name, known and distinguished by the name and style to be expressed in the said instrument, and by that name shall have perpetual succession, and be capable in the law to sue and be sued, and defend and be defended, in all courts, and in all causes, plaints, controversies, matters and things whatsoever; and by the same name and style, they and their successors shall lawfully hold, use and enjoy the lands, tenements, and hereditaments, in any wise appertaining to the academy for which they shall be constituted trustees, and shall and may lawfully have, take, acquire, purchase and enjoy lands, tenements and hereditaments, and use and improve such goods and chattels, in such manner as they shall judge to be most beneficial for such academy: Provided, That the annual revenue or income, arising from the real and personal estate of any such academy, shall not exceed the value of four thousand bushels of wheat; any law, usage or custom to the contrary notwithstanding.

XIV. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful to and for such trustees, and their

successors for ever, to have and use a common seal, and the same to alter, break, and make anew, at their pleasure. And as often as any three or more of the said trustees shall think fit, and signify their request, the senior trustee actually exercising his office and residing within three miles of such academy, shall call a meeting of the said trustees at such convenient time and place as he shall appoint, not less than eight nor more than twelve days from the time of such request, of which previous notice in writing shall be affixed on the door of the academy, and of the church nearest thereto, within two days after such appointment; and at every such meeting the senior trustee shall preside, such seniority in all cases to be determined according to the order of their nomination in the said instrument, or according to the priority of election after all the first trustees shall become extinct, and the major part of such trustees shall always be a sufficient quorum to proceed on business, and shall have full power and authority to adjourn from time to time, not exceeding seven days at any one time, as the duties of their trust may require. And it shall and may be lawful to and for such quorum of the said trustees, when assembled and met in manner aforesaid, or the major part of them, from time to time to appoint a treasurer and clerk, principal, masters, tutors, teachers, and other necessary officers, to ascertain their respective salaries, and to remove and displace any of them at their pleasure, and to make by-laws for the admission, education, government, and discipline of the scholars and students, and the establishment of the price or terms of tuition; for securing, revising, and paying out and disposing of the revenues, and in general for conducting and managing the estate, business, and affairs of the said academy, and every matter and thing relating thereto in such manner as they shall judge to be most conducive to its interest and prosperity, and the end of their trust.

XV. And in order to preserve the succession of trustees for the said academies respectively, *Be it further enacted by the authority aforesaid*, That whenever a vacancy shall happen in any corporation of trustees, by the death, resignation, or refusal to act of any trustee, it shall and may be lawful to and for the

trustees of such academy, and they are hereby authorized and required, at any legal meeting of the trustees, to elect and choose a fit person to fill up and supply such vacancy.

XVI. And for the greater encouragement of such academies, and to render them more useful and respectable, *Be it further enacted by the authority aforesaid*, That the regents of the university shall be visitors of such academies, and the chancellor, vice-chancellor, or a committee of the regents shall, as often as they see proper, visit such academies, to inquire into the state and progress of literature therein.

XVII. *And be it further enacted by the authority aforesaid*, That when any scholar who shall be educated at any of the said academies, on due examination by the president and professors of Columbia College, or any other college subject to the visitation of the said regents, shall be found competent in the judgment of the said president and professors, to enter into the sophomore, junior, or senior classes of such colleges respectively, such scholar shall be entitled to an admission into such of the said classes for which he shall be so adjudged competent, and shall be admitted accordingly, at any one of the quarterly examinations of such respective classes.

XVIII. *Provided always and be it further enacted by the authority aforesaid*, That to entitle the scholars of any such academies to the privileges aforesaid, the trustees thereof shall lay before the regents of the said university, from time to time, the plan or system proposed to be adopted for the education of the students in each of the said academies respectively, in order that the same may be revised and examined by the said regents, and by them be altered or amended, or approved and confirmed, as they shall judge proper.

XIX. *And be it further enacted by the authority aforesaid*, That whenever it shall appear to the said regents, that the state of literature in any academy is so far advanced, and the funds will admit thereof, that it may be expedient that a president be appointed for such academy, the said regents shall in such case signify their approbation thereof, under their common seal, which being entered of record as aforesaid, shall authorize the trustees

of such academy to elect a president, who shall have, hold, and enjoy all the powers that the president of any college recognized by this act shall or may lawfully have, hold, and enjoy; and such academy thereafter, instead of being called an academy, shall be called and known by the same name it was called while it was an academy, except that the word *college* shall be used in all cases instead of the word *academy*, and be subject to the like rules and regulations, control and visitation of the regents, as other colleges mentioned in this act.

XX. *And be it further enacted by the authority aforesaid*, That no president or professor shall be ineligible for or by reason of any religious tenet or tenets that he may or shall profess; or be compelled by any law or otherwise, to take any test oath whatsoever; and no professor or tutor of any college or academy recognized by this act, shall be a trustee of any such college or academy, nor shall any president of any college or principal of any academy, who shall be a trustee, have a vote in any case relating to his own salary or emoluments; nor shall any trustee, president, principal, tutor, fellow, or other officer of any college or academy, be a regent of the university.

XXI. *And be it further enacted by the authority aforesaid*, That whenever any person, now or hereafter appointed a trustee of any college or academy, shall be appointed or elected a regent of the university, and whenever any person, being a regent of the university, shall be appointed or elected a trustee of any college or academy, such person so appointed or elected, shall, on due notice thereof, decide and elect in which of the said places he will serve, and, by writing, under his hand, shall make known such election, whether of refusal or acceptance, to those by whom he was elected, to the end that such appointment may take effect, in case he accept it, or that they proceed to a new appointment in case he refuse it.

XXII. *And be it further enacted by the authority aforesaid*, That the act entitled, An act for granting certain privileges to the college heretofore called King's College, for altering the name and charter thereof, and erecting an university within this State, passed the first day of May, 1784; and the act entitled,

An act to amend an act entitled, An act for granting certain privileges to the college heretofore called King's College, for altering the name and charter thereof, and erecting an university within this State, passed the 26th day of November 1784, be, and they are hereby severally repealed.

SPEECH ON THE REVENUE SYSTEM.

There appears to me to have been some confusion in the manner of voting on the two preceding clauses of this bill; the first, for granting the impost to the United States, having been carried by a majority of one, and the last, for making the officers employed in the collection accountable to them, having been lost by a much larger majority. I was induced to hope, from the success of the first question, that the second would have met with equal success; as I presume gentlemen who meant to adhere to the act of the last session, would have opposed the whole of the present bill as unnecessary; and those who meant to depart from it, would be willing to agree substantially to the system recommended by Congress, as it had been adopted and modified by the other States generally. From the complexion of the votes on the last question, I am obliged to conclude, either that I was mistaken in my ideas of the intention of the committee, or that there is some misapprehension, in part, of the members.

It becomes, therefore, necessary—to obviate such misapprehension, if any exists, and to discharge my duty at all events—to lay the subject fully before the committee, and to detail, at large, my reasons for wishing to see the bill, in its present form, prevail.

It is a common practice, in entering upon the discussion of an important subject, to endeavor to conciliate the good will of the audience to the speaker, by professions of disinterestedness and zeal for the public good. The example, however frequent, I shall no further imitate than by making one or two general

observations. If, in the public stations I have filled, I have acquitted myself with zeal, fidelity and disinterestedness; if, in the private walk of life, my conduct has been unstained by any dishonorable act, if it has been uniformly consistent with the rules of integrity, I have a right to the confidence of those to whom I address myself: they cannot refuse it to me without injustice. I am persuaded they will not refuse it to me. If, on the other hand, my public conduct has been in any instance marked with perfidy, duplicity, or with sinister views of any kind; if any imputations, founded in fact, can be adduced to the prejudice of my private character, I have no claim to the confidence of the committee; nor should I expect it.

Even these observations I should have spared myself, did I not know that, in the rage of party, gross calumnies have been propagated. Some I have traced and detected: there may still be others in secret circulation, with which I am unacquainted. Against the influence of such arts I can have no other shield than the general tenor of my past conduct. If *that* will protect me, I may safely confide in the candor of the committee. To that standard I cheerfully submit.

But, indeed, of what importance is it who is the speaker? 'tis his *reasons* only that concern the committee; if these are good they owe it to themselves and to their constitution to allow them their full weight.

The first objection (and that which is supposed to have the greatest force) against the principles of the bill, is, that it would be unconstitutional to delegate legislative power to Congress. If this objection be founded in truth there is at once an end of the inquiry. God forbid that we should violate that Constitution which is the charter of our rights. But it is our duty to examine dispassionately whether it really stands in our way. If it does not, let us not erect an ideal barrier to a measure which the public good may require.

The first ground of the objection is deduced from that clause of the Constitution which declares "that no power shall be exercised over the people of this State but such as is granted by or derived from them."

This, it is plain, amounts to nothing more than a declaration of that fundamental maxim of republican government, "that all power, mediately or immediately, is derived from the consent of the people," in opposition to those doctrines of despotism which uphold the divine right of kings, or lay the foundations of government in force, conquest, or necessity. It does not at all affect the question how far the legislature may go in granting power to the United States. A power conferred by the representatives of the people, if warranted by the Constitution under which they act, is a power derived from the people. This is not only a plain inference of reason, but the terms of the clause itself, seem to have been calculated to let in the principle. The words, "derived from," are added to the words "granted by," as if with design to distinguish an indirect derivation of power from an immediate grant of it. This explanation is even necessary to reconcile the Constitution to itself, and to give effect to all its parts, as I hope fully to demonstrate in its proper place.

The next clause of the Constitution relied upon, is that which declares that "the supreme legislative power *within this State* shall be vested in a Senate and Assembly." This, it is said, excludes the idea of any other legislative power operating within the State. But the more obvious construction of this clause, and *that* which best consists with the situation and views of the country at this time, with what has been done before and since the formation of our Constitution, and with those parts of the Constitution itself which acknowledge the Federal Government, is this—"In the distribution of the different parts of the sovereignty in the *particular* government of this State, the legislative authority shall reside in a Senate and Assembly," or in other words, "the legislative authority of the particular government of the State of New-York shall be vested in a Senate and Assembly." The framers of the Constitution could have had nothing more in view than to delineate the different departments of power in our own State government, and never could have intended to interfere with the formation of such a Constitution for the Union as the safety of the whole might require. The justness of this construction will be further elucidated by that part of the Constitution which pre-

scribes, that, "the supreme executive authority of *the State* shall be vested in a governor." If the former clause excludes the grant of legislative power, this must equally exclude the grant of the executive power, and the consequence would be that there could be no Federal Government at all.

It will be of no avail to say, that there is a difference in the two cases in the mode of expression; that, in one, the terms of description are "within the State," in the other, "of the State." In grammar, or good sense, the difference in the phrases constitutes no substantial difference in the meaning, or if it does, it concludes against the objection; for the words, *within this State*, which are applied to the legislative power, have a certain precision that may be supposed to intend a distinction between that legislative power which is to operate *within this State* only, and that which is to operate upon this State in conjunction with the others. But I lay no stress on this observation. In my opinion the legislative power "*within this State*" or the legislative power "of this State," amount in substance to the same thing, and therefore (as has been already observed) if the Constitution prohibits the delegation of legislative power to the UNION, it equally prohibits the delegation of executive power—and the Confederacy must then be at an end; for without legislative or executive power, it becomes a nullity.

Unfortunately for the objection, if it proves any thing it proves too much. It proves that the powers of the Union in their present form are an usurpation on the Constitution of this State. This will appear not only from the reasoning adduced, but from this further consideration,—that the United States are already possessed of *legislative* as well as *executive* authority. The objects of executive power are of three kinds, to make treaties with foreign nations, to make war and peace, to execute and interpret the laws. This description of the executive power will enable us the more readily to distinguish the legislative; which in general may be defined the power of prescribing rules for the community.

The United States are authorized to require from the several States as much money as they judge necessary for the general

purposes of the Union, and to limit the time within which it is to be raised: to call for such a number of troops as they deem requisite for the common defence in time of war—to establish rules in all cases of capture by sea or land—to regulate the alloy and value of coin, the standard of weights and measures, and to make all laws for the government of the army and navy of the Union. All these are powers of the legislative kind, and are declared by the Confederation to be binding upon all the States.

The first is nothing less than a power of taxing the States in gross, though not in detail; and the last is the power of disposing of the liberty and lives of the citizens of this State, when in arms for the common defence. That the powers enumerated are all, or most of them, of a legislative nature, will not be denied by the law members on the other side of the question. If the Constitution forbids the grant of legislative power to the UNION, all those authorities are illegal and unconstitutional, and ought to be resumed.

If, on the contrary, those authorities were properly granted, then it follows that the CONSTITUTION does not forbid the grant of legislative power, and the objection falls to the ground; for there is nothing in the Constitution permitting the grant of one kind of legislative authority, and forbidding that of another. The degree or nature of the powers of legislation which it might be proper to confer upon the Federal Government, would in this case be a mere question of prudence and expediency, to be determined by general considerations of utility and safety.

The principle of the objection under consideration would not only subvert the foundation of the UNION as now established—would not only render it impossible that any Federal Government could exist; but would defeat some of the provisions of the Constitution itself. This last idea deserves particular attention.

The nineteenth clause makes it the duty of the Governor "to correspond with the Continental Congress." The twentieth provides "that the judges and chancellor shall hold no other office than delegate to the GENERAL CONGRESS;" and the thirtieth directs "that delegates to *represent* this State in the General Con-

gress of the United States of America shall be annually appointed."

Now, sir, I ask, if Congress were to have neither executive nor legislative authority, to what purpose were they to exist? To what purpose were delegates to be annually appointed to that body? To what purpose were these delegates to represent this State? Or how could they be said to represent it at all?

Is not the plain import of this part of the Constitution, that they were to *represent this State* in the General Assembly of the UNITED STATES, for the purpose of managing the common concerns of the Union? And does not this necessarily imply that they were to be clothed with such powers as should be found essential to that object? Does it amount to a constitutional warrant to the Legislature to confer those powers, of whatever kind they might be?

To answer these questions in the negative, would be to charge the Constitution with the absurdity of proposing to itself an *end*, and yet prohibiting the means of accomplishing that end.

The words "to represent this State" are of great latitude, and are of themselves sufficient to convey any power necessary to the conduct and direction of its affairs in connection with the other parts of the Confederacy.

In the interpretation of laws it is admitted to be a good rule to resort to the coexisting circumstances, and collect from thence the intention of the framers of the law. Let us apply this rule to the present case.

In the commencement of the Revolution delegates were sent to meet in Congress with large discretionary powers. In short, generally speaking, with full power "to take care of the republic." In the whole of this transaction the idea of an UNION of the colonies was carefully held up. It pervaded all our public acts.

In the Declaration of Independence we find it continued and confirmed. That declaration, after setting forth its motives and causes, proceeds thus: "We, therefore, the representatives of the United States of America in general Congress assembled, appealing to the Supreme Judge of the world for the rectitude of our in-

tentions, do in the name and by the authority of the good people of these colonies, solemnly publish and declare, that these United Colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britian is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things that independent states may of right do."

Hence we see that the UNION and INDEPENDENCE of these STATES are blended and incorporated in one and the same act; which, taken together, clearly imports that the United States had in their origin full power to do all acts and things which independent states may of right do; or, in other words, full power of sovereignty.

Accordingly, we find that upon the authority of that act only approved by the several States, they did levy war, contract alliances, and exercise other high powers of sovereignty, even to the appointment of a dictator, prior to the present confederation.

In this situation, and with this plenitude of power, our Constitution knows and acknowledges the United States in Congress assembled, and provides for the annual appointment of delegates to represent this State in that body; which, in substance, amounts to a constitutional recognition of the UNION, with complete sovereignty.

A government may exist without any formal organization or precise definition of its powers. However improper it might have been, that the Federal Government should have continued to exist with such absolute and undefined authority, this does not militate against the position that it did possess such authority. It only proves the propriety of a more regular formation to ascertain its limits. This was the object of the present Confederation, which is, in fact, an abridgment of the original sovereignty of the UNION.

It may be said, (for it has been said upon other occasions,) that, though the Constitution did consider the United States in

the light I have described, and left the legislature at liberty in the first instance to have organized the Federal Government in such a manner as they thought proper, yet that liberty ceased with the establishment of the present Confederacy. The discretion of the legislature was then determined.

This, upon the face of it, is a subtilty, uncountenanced by a single principle of government, or a single expression of the Constitution. It is saying that a general authority given to the legislature for the permanent preservation and good of the community, has been exhausted and spent by the exercise of a part of that authority. The position is the more destitute of color, because the Confederation, by the express terms of the compact, preserves and continues this power. The last clause of it authorizes Congress to propose, and the States to agree to such alterations as might be afterwards found necessary or expedient.

We see, therefore, that the Constitution knows and acknowledges the United States in Congress; that it provides for the annual appointment of delegates to *represent this State* in that body without prescribing the objects or limits of that representation; that at the time our Constitution was framed, the Union existed with full sovereignty; and that therefore the idea of sovereignty in the Union is not incompatible with it. We see, further, that the doctrine contained in the objection against granting legislative power, would equally operate against granting executive power, would prove that the powers already vested in the Union are illegal and unconstitutional, would render a confederacy of the States in any form impracticable, and would defeat all those provisions of our own Constitution which relate to the United States. I submit it to the committee, whether a doctrine pregnant with such consequences can be true; whether it is not as opposite to our Constitution as to the principles of national safety and prosperity; and whether it would not be lamentable if the zeal of opposition to a particular measure should carry us to the extreme of imposing upon the Constitution a sense foreign to it; which must embarrass the national councils upon future occasions, when all might agree in the utility and necessity of a different construction.

If the arguments I have used under this head are not well-founded, let gentlemen *come forward and show their fallacy.* Let the subject have a fair and full examination, and let truth, on whatever side it may be, prevail!

Flattering myself it will appear to the committee that the Constitution, at least, offers us no impediment, I shall proceed to other topics of objection. The next that presents itself, is a supposed danger to liberty from granting legislative power to Congress.

But, before I enter upon this subject, to remove the aspersions thrown upon that body, I shall give a short history of some material facts relating to the origin and progress of the business. To excite the jealousies of the people, it has been industriously represented as an undue attempt to acquire an increase of power. It has been forgotten, or intentionally overlooked, that, considering it in the strongest light as a proposal to alter the Confederation, it is only exercising a power which the Confederation has in direct terms reposed in Congress, who, as before observed, are, by the 13th article, expressly authorized to propose alterations.

But so far was the measure from originating in improper views of that body, that, if I am rightly informed, it did not originate there at all. It was first suggested by a convention of the four Eastern States, and New-York, at Hartford, and, I believe, was proposed there by the deputies of this State. A gentleman on our bench, unconnected with Congress, who now hears me (I mean Judge Hobart), was one of them. It was dictated by a principle which *bitter experience then* taught us, and which, in peace or war, will always be found true—that adequate supplies to the federal treasury, can never flow from any system which requires the intervention of thirteen deliberatives between the *call* and the *execution.*

Congress agreed to the measure, and recommended it. This State complied without hesitation. All parts of the government—Senate, Assembly, and Council of Revision—concurred; neither the Constitution nor the public liberty presented any obstacle. The difficulties from these sources are a recent discovery.

So late as the first session of the legislature, after the evacuation of this city, the Governor of the State, in his speech to both Houses, gave a decided countenance to the measure. This he does, though not in express terms, yet by implications not to be misunderstood.

The *leading opponents* of the impost, of the present day, have all of them, at other times, either concurred in the measure, in its most exceptionable form, and without the qualifications annexed to it by the proposed bill, or have, by other instances of conduct, contradicted their own hypothesis on the Constitution, which professedly forms the main prop of their opposition.

The honorable member in my eye ( ), at the last session, brought in a bill for granting to the United States the power of regulating the trade of the Union. This surely includes more ample legislative authority than is comprehended in the mere power of levying a particular duty. It indeed goes to a prodigious extent, much farther than, on a superficial view, can be imagined. Can we believe that the constitutional objection, if well founded, would so long have passed undiscovered and unnoticed? Or, is it fair to impute to Congress criminal motives for proposing a measure which was first recommended to them by five States, or from persisting in that measure, after the unequivocal experience they have had of the total inefficacy of the mode provided in the Confederation for supplying the treasury of the Union?

I leave the answer to these questions to the good sense and candor of the committee, and shall return to the examination of the question, how far the power proposed to be conferred upon Congress would be dangerous to the liberty of the people. And here I ask—

Whence can this danger arise? The members of Congress are annually chosen by the members of the several legislatures. They come together with different habits, prejudices, and interests. They are, in fact, continually changing. How is it possible for a body so composed to be formidable to the liberties of States—several of which are large empires in themselves?

The subversion of the liberty of these States could not be the

business of a day. It would at least require time, premeditation, and concert. Can it be supposed, that the members of a body so constituted, would be unanimous in a scheme of usurpation? If they were not, would it not be discovered and disclosed? If we could even suppose this unanimity among one set of men, can we believe that all the new members who are yearly sent from one State or another, would instantly enter into the same views? Would there not be found one honest man to warn his country of the danger?

Suppose the worst—suppose the combination entered into and continued. The execution would at least announce the design; and the means of defence would be easy. Consider the separate power of several of these States, and the situation of all. Consider the extent, populousness, and resources of Massachusetts, Virginia, Pennsylvania; I might add, of New-York, Connecticut, and other States. Where could Congress find means sufficient to subvert the government and liberties of either of these States? or, rather, where find means sufficient to effect the conquest at all? If an attempt was made upon one, the others, from a sense of common danger, would make common cause; and they could immediately unite and provide for their joint defence.

There is one consideration, of immense force in this question, not sufficiently attended to. It is this—that each State possesses in itself the full powers of government, and can at once, in a regular and constitutional way, take measures for the preservation of its rights. In a single kingdom or state, if the rulers attempt to establish a tyranny, the people can only defend themselves by a tumultuary insurrection; they must run to arms without concert or plan; while the usurpers, clothed with the forms of legal authority, can employ the forces of the State to suppress them in embryo, and before they can have time or opportunity to give system to their opposition. With us, the case is widely different. Each State has a government, completely organized in itself, and can at once enter into a regular plan of defence; with the forces of the community at its command, it can immediately form connections with its neighbors, or even with foreign powers, if necessary.

In a contest of this kind, the body of the people will always be on the side of the State governments. This will not only result from their love of liberty, and regard to their own safety, but from other strong principles of human nature. The State governments operate upon those immediate familiar personal concerns to which the sensibility of individuals is awake. The distribution of private justice belonging to them, they must always appear to the senses of the people as the immediate guardians of their rights. They will, of course, have the strongest hold on their attachment, respect, and obedience. Another circumstance will contribute to the same end: Far the greatest number of offices and employments are in the gift of the States separately; the weight of official influence will therefore be in favor of the State governments; and, with all these advantages, they cannot fail to carry the people along with them in every contest with the General Government in which they are not palpably in the wrong, and often when they are. What is to be feared from the efforts of Congress to establish a tyranny, with the great body of the people, under the direction of their State governments, combined in opposition to their views? Must not their attempts recoil upon themselves, and terminate in their own ruin and disgrace? or, rather, would not these considerations, if they were insensible to other motives, for ever restrain them from making such attempts?

The causes taken notice of, as securing the attachment of the people to their local governments, present us with another important truth—the natural imbecility of Federal governments, and the danger that they will never be able to exercise power enough to manage the general affairs of the Union; though the States will have a common interest, yet they will also have a particular interest. For example: as a part of the Union, it will be the interest of every State to pay as little itself, and to let its neighbors pay as much, as possible. Particular interests have always more influence upon men than general. The Federal States, therefore, consulting their immediate advantage, may be considered as so many eccentric powers, tending in a contrary direction to the government of the UNION; and as they will gene-

rally carry the people along with them, the CONFEDERACY will be in continual danger of dissolution. This, Mr. Chairman, is the real rock upon which the happiness of this country is likely to split. This is the point to which our fears and cares should be directed—to guard against this, and not to terrify ourselves with imaginary dangers from the spectre of power in Congress, will be our true wisdom.

But let us examine a little more closely the measure under consideration. What does the bill before us require us to do? Merely to grant duties on imposts to the United States, for the short period of twenty-five years; to be applied to the discharge of the principal and interest of the debts contracted for the support of the late war; the collection of which duties is to be made by officers appointed by the State, but accountable to Congress, according to such general regulations as the United States shall establish, subject to these important checks, that no citizen shall be carried out of the State for trial; that all prosecutions shall be in our own courts; that no excessive fines or penalties shall be imposed; and that a yearly account of the proceeds and application of the revenue shall be rendered to the legislature, on failure of which it reserves to itself a right of repealing its grant.

Is it possible for any measure to be better guarded? or is it possible that a grant for such precise objects, and with so many checks, can be dangerous to the public liberty?

Having now, as I trust, satisfactorily shown, that the Constitution offers no obstacle to the measure; and that the liberty of the people cannot be endangered by it, it remains only to consider it in the view of revenue.

The sole question left for discussion is, Whether it be an eligible mode of supplying the Federal treasury or not?

The better to answer this question, it will be of use to examine how far the mode by quotas and requisitions has been found competent to the public exigencies.

The universal delinquency of the States during the war, shall be passed over with the bare mention of it. The public embarrassments were a plausible apology for that delinquency; and it

was hoped the peace would have produced greater punctuality. The experiment has disappointed that hope, to a degree which confounds the least sanguine. A comparative view of the compliances of the several States, for the five last years, will furnish a striking result.

During that period, as appears by a statement on our files, New Hampshire, North Carolina, South Carolina, and Georgia, have paid nothing. I say nothing, because the only actual payment, is the trifling sum of about 7000 dollars by New Hampshire. South Carolina indeed has credits, but these are merely by way of discount, on the supplies furnished by her during the war, in consideration of her peculiar sufferings and exertions while the immediate theatre of it.

Connecticut and Delaware have paid about one third of their requisitions. Massachusetts, Rhode Island, and Maryland, about one half; Virginia about three fifths, Pennsylvania nearly the whole, and New-York more than her quota.

These proportions are taken on the specie requisitions, the indents have been very partially paid, and in their present state are of little account.

The payments into the Federal treasury have declined rapidly each year. The whole amount, for three years past, in specie, has not exceeded 1,400,000 dollars, of which New-York has paid 100 per cent. more than her proportion. This sum, little more than 400,000 dollars a year, it will readily be conceived, has been exhausted in the support of the civil establishments of the Union, and the necessary guards and garrisons of public arsenals, and on the frontiers; without any surplus for paying any part of the debt, foreign or domestic, principal or interest.

Things are continually growing worse; the last year in particular produced less than two hundred thousand dollars, and that from only two or three States. Several of the States have been so long unaccustomed to pay, that they seem no longer concerned even about the appearances of compliance.

Connecticut and Jersey have almost formally declined paying any longer. The ostensible motive is the non-concurrence of

this State in the impost system. The real one must be conjectured from the fact.

Pennsylvania, if I understand the scope of some late resolutions, means to discount the interest she pays upon her assumption to her own citizens; in which case there will be little coming from her to the United States. This seems to be bringing matters to a crisis.

The pecuniary support of the Federal Government has of late devolved almost entirely upon Pennsylvania and New-York. If Pennsylvania refuses to continue her aid, what will be the situation of New-York? Are we willing to be the Atlas of the Union? or are we willing to see it perish?

This seems to be the alternative. Is there not a species of political knight-errantry in adhering pertinaciously to a system which throws the whole weight of the Confederation upon this State, or upon one or two more? Is it not our interest, on mere calculations of State policy, to promote a measure, which, operating under the same regulations in every State, must produce an equal, or nearly equal, effect every where, and oblige all the States to share the common burthen?

If the impost is granted to the United States, with the power of levying it, it must have a proportionate effect in all the States, for the same mode of collection every where will have nearly the same return every where.

What must be the final issue of the present state of things? Will the few States that now contribute, be willing to contribute much longer? Shall we ourselves be long content with bearing the burthen singly? Will not our zeal for a particular system, soon give way to the pressure of so unequal a weight? And if all the States cease to pay, what is to become of the UNION? It is sometimes asked, Why do not Congress oblige the States to do their duty? But where are the means? Where are the fleets and armies, where the Federal treasury to support those fleets and armies, to enforce the requisitions of the Union? All methods short of coercion, have repeatedly been tried in vain.

Let us now proceed to another most important inquiry. How

are we to pay our foreign debt? This, I think, is estimated at about 7,000,000 of dollars, which will every year increase with the accumulations of interest. If we pay neither principal nor interest, we not only abandon all pretensions to character as a nation, but we endanger the public peace. However it may be in our power to evade the just demands of our domestic creditors, our foreign creditors must and will be paid.

They have power to enforce their demands, and sooner or later they may be expected to do it. It is not my intention to endeavor to excite the apprehensions of the committee, but I would appeal to their prudence. A discreet attention to the consequences of national measures is no impeachment of our firmness.

The foreign debt, I say, must sooner or later be paid, and the longer provision is delayed the heavier it must fall at last.

We require about 1,600,000 dollars to discharge the interest and instalments of the present year, about a million annually upon an average, for ten years more, and about 300,000 dollars for another ten years.

The product of the impost may be computed at about a million of dollars annually. It is an increasing fund. This fund would not only suffice for the discharge of the foreign debt, but important operations might be ingrafted upon it towards the extinguishment of the domestic debt.

Is it possible to hesitate about the propriety of adopting a resource so easy in itself, and so extensive in its effects?

Here I expect I may be told there is no objection to employing this resource. The act of the last session does it. The only dispute is about the mode. We are willing to grant the *money*, but not the *power* required from us. Money will pay our debts; power may destroy our liberties.

It has been insinuated that nothing but a lust of power would have prevented Congress from accepting the grant in the shape it has already passed the legislature. This is a severe charge. If true, it ought undoubtedly to prevent our going a step further. But it is easy to show that Congress could not have accepted our grant without removing themselves further from the object than they now are. To gain one State they must have lost all the

others. The grants of every State are accompanied with a condition that similar grants be made by the other States. It is not denied that our act is essentially different from theirs. Their acts give the United States the power of collecting the duty; ours reserves it to the State, and makes it receivable in paper money.

The immediate consequences of accepting our grant would be a relinquishment of the grants of other States. They must take the matter up anew, and do the work over again to accommodate it to our standard. In order to anchor one State, would it have been wise to set twelve, or at least eleven others, afloat?

It is said, that the States which have granted more would certainly be willing to grant less. They would easily accommodate their acts to that of New-York, as more favorable to their own power and security.

But would Massachusetts and Virginia, which have no paper money of their own, accede to a plan that permitted other States to pay in paper while they paid in specie? Would they consent that their citizens should pay *twenty* shillings in the pound, while the citizens of Rhode Island paid only *four*, the citizens of North Carolina *ten*, and of other States in different degrees of inequality, in proportion to the relative depreciation of their paper? Is it wise, in this State, to cherish a plan that gives such an advantage to the citizens of other States over its own?

The paper money of the State of New-York, in most transactions, is equal to gold and silver; that of Rhode Island is depreciated to five for one; that of North Carolina to two for one; that of South Carolina may perhaps be worth fifteen shillings in the pound.

If the States pay the duties in paper, is it not evident that for every pound of that duty consumed by the citizen of New-York, he would pay twenty shillings, while the citizen of South Carolina would pay fifteen shillings; of North Carolina, ten shillings; and Rhode Island, only four!

This consideration alone is sufficient to condemn the plan of our grant of last session, and to prove incontestably that the States which are averse to emitting a paper currency, or have it

in their power to support one when emitted, would never come into it.

Again, would those States which by their public acts demonstrate a conviction that the powers of the UNION require augmentation; which are conscious of energy in their own administration—would they be willing to concur in a plan which left the collection of the duties in the hands of each State; and of course subject to all the inequalities which a more or less vigorous system of collection would produce?

This too is an idea which ought to have great weight with us. We have better habits of government than are to be found in some of the States; and our Constitution admits of more energy than the Constitution of most of the other States. The duties, therefore, would be more effectually collected with us than in such States, and this would have a similar effect to the depreciation of the money, in imposing a greater burthen on the citizens of this State.

If any State should incline to evade the payment of the duties, having the collection in its own hands, nothing would be easier than to effect it, and without materially sacrificing appearances.

It is manifest, from this view of the subject, that we have the strongest reasons, as a State, to depart from our own act; and that it would have been highly injudicious in Congress to have accepted it.

If there even had been a prospect of the concurrence of the other States in the plan, how inadequate would it have been to the public exigencies, fettered with the embarrassments of a depreciating paper!

It is to no purpose to say, that the faith of the State was pledged by the act to make the paper equal to gold and silver; and that the other States would be obliged to do the same. What greater dependence can be had on the faith of the States pledged to this measure, than on the faith they pledged in the Confederation sanctioned by a solemn appeal to heaven? If the obligation of faith in one case has had so little influence upon their conduct in respect to the requisitions of Congress, what hope

can there be that they would have greater influences in respect to the deficiencies of the paper money?

There yet remains an important light in which to consider the subject in the way of revenue. It is a clear point that we cannot carry the duties upon imports to the same extent by separate arrangements as by a general plan—we must regulate ourselves by what we find done in the neighboring States: while Pennsylvania has only two and a half per cent. on her importations, we cannot greatly exceed her. To go much beyond it would injure our commerce in a variety of ways, and would defeat itself. While the ports of Connecticut and Jersey are open to the introduction of goods free from duty, and the conveyance from them to us is so easy—while they consider our imposts as an ungenerous advantage taken of them, which it would be laudable to elude, the duties must be light or they would be evaded. The facility to do it, and the temptation of doing it, would be both so great, that we should collect perhaps less by an increase of the rates than we do now. Already we experience the effects of this situation. But if the duties were to be levied under a common direction, with the same precautions every where to guard against smuggling, they might be carried without prejudice to trade to a much more considerable height.

As things now are, we must adhere to the present standard of duties, without any material alterations. Suppose this to produce fifty thousand pounds a year. The duties to be granted to Congress ought, in proportion, to produce double that sum. To this it appears, by a scheme now before us, that additional duties might be imposed for the use of the State, on certain enumerated articles, to the amount of thirty thousand pounds. This would be an augmentation of our national revenue by indirect taxation to the extent of eighty thousand pounds a year, an immense object in a single State, and which alone demonstrates the good policy of the measure.

It is no objection to say that a great part of this fund will be dedicated to the use of the United States. Their exigencies must be supplied in some way or other. The more is done towards it by means of the impost, the less will be to be done in

other modes. If we do not employ that resource to the best account, we must find others in *direct* taxation. And to this are opposed all the habits and prejudices of the community. There is not a farmer in the State who would not pay a shilling in the voluntary consumption of articles on which a duty is paid, rather than a penny imposed immediately on his house and land.

There is but one objection to the measure under consideration that has come to my knowledge, which yet remains to be discussed. I mean the effect it is supposed to have upon our paper currency. It is said the diversion of this fund would leave the credit of the paper without any effectual support.

Though I should not be disposed to put a consideration of this kind in competition with the safety of the UNION; yet I should be extremely cautious about doing any thing that might affect the credit of our currency. The legislature having thought an emission of paper advisable, I consider it my duty as a representative of the people to take care of its credit. The farmers appeared willing to exchange their produce for it; the merchants on the other hand had large debts outstanding. They supposed that giving a free circulation to the paper would enable their customers in the country to pay, and as they perceived that they would have it in their power to convert the money into produce, they naturally resolved to give it their support.

These causes combined to introduce the money into general circulation, and having once obtained credit, it will now be able to support itself.

The chief difficulty to have been apprehended in respect to the paper, was to overcome the diffidence which the still recent experience of depreciating paper had instilled into men's minds. This, it was to have been feared, would have shaken its credit at its outset, and if it had once began to sink, it would be no easy matter to prevent its total decline.

The event has, however, turned out otherwise, and the money has been fortunate enough to conciliate the general confidence. This point gained, there need be no apprehensions of its future fate, unless the government should do something to destroy that confidence.

The causes that first gave it credit still operate, and will in all probability continue so to do. The demand for money has not lessened, and the merchant has still the same inducement to countenance the circulation of the paper.

I shall not deny that the outlet which the payment of duties furnished to the merchant, was an additional motive to the reception of the paper. Nor is it proposed to take away this motive. There is now before the House a bill, one object of which is the establishment of a State impost on certain enumerated articles, in addition to that to be granted to the United States. It is computed on very good grounds, that the additional duties would amount to about £30,000, and as they would be payable in paper currency, they would create a sufficient demand upon the merchant to leave him, in this respect, substantially the same inducement which he had before. Indeed, independent of this, the readiness of the trading people to take the money can never be doubted, while it will freely command the commodities of the country; for this, to them, is the most important use they can make of it.

But besides the State impost, there must be other taxes: and these will all contribute to create a demand for the money; which is all we now mean when we talk of funds for its support; for there are none appropriated for the redemption of the paper.

Upon the whole, the additional duties will be a competent substitute for those now in existence; and the general good will of the community towards the paper, will be the best security for its credit.

Having now shown, Mr. Chairman, that there is no constitutional impediment to the adoption of the bill; that there is no danger to be apprehended to the public liberty from giving the power in question to the United States; that in the view of revenue the measure under consideration is not only expedient but necessary—let us turn our attention to the other side of this important subject. Let us ask ourselves, what will be the consequence of rejecting the bill? What will be the situation of our national affairs if they are left much longer to float in the chaos in which they are now involved?

Can our NATIONAL CHARACTER be preserved without paying our debts? Can the UNION subsist without revenue? Have we realized the consequences which would attend its dissolution?

If these States are not united under a FEDERAL GOVERNMENT they will infallibly have wars with each other; and their divisions will subject them to all the mischiefs of foreign influence and intrigue. The human passions will never want objects of hostility. The Western Territory is an obvious and fruitful source of contest. Let us also cast our eye upon the map of this State, intersected from one extremity to the other by a large navigable river. In the event of a rupture with them, what is to hinder our metropolis from becoming a prey to our neighbors? Is it even supposable that they would suffer it to remain the nursery of wealth to a distinct community?

These subjects are delicate, but it is necessary to contemplate them, to teach us to form a true estimate of our situation.

Wars with each other would beget standing armies—a source of more real danger to our liberties than all the powers that could be conferred upon the representatives of the Union. And wars with each other would lead to opposite alliances with foreign powers, and plunge us into all the labyrinths of European politics.

The Romans, in their progress to universal dominion, when they conceived the project of subduing the refractory spirit of the Grecian republics, which composed the famous Achaian League, began by sowing dissensions among them, and instilling jealousies of each other, and of the common head, and finished by making them a province of the Roman empire.

The application is easy: if there are any foreign enemies, if there are any domestic foes to this country, all their arts and artifices will be employed to effect a dissolution of the Union. This cannot be better done than by sowing jealousies of the Federal head, and cultivating in each State an undue attachment to its own power.

INDEPENDENCE OF VERMONT.

An act to empower and direct the delegates of this State in Congress, to accede to, ratify, and confirm the sovereignty and independence of the people of the territory commonly called and known by the name of the State of Vermont. 1787.

Be it enacted by the people of the State of New-York, represented in Senate and Assembly, and it is hereby enacted by the authority of the same, That the delegates of this State in the Congress of the United States of America, or any two of them, shall be, and hereby are fully authorized, empowered, and required, wholly, entirely, and absolutely, for and in behalf of the people of this State, and in such manner, and with such formalities as shall be determined in Congress, to accede to, recognize, ratify, approve and confirm the independence and sovereignty of the people inhabiting the Territory commonly called and known by the name of the State of Vermont:

Provided, always, that it be, and it hereby is declared to be, an indispensable preliminary to such act of accession to and recognition of the independence and sovereignty of the said people, that they explicitly relinquish and renounce all claims and pretensions to any lands, territory, or jurisdiction, on the east side of the west bank of Connecticut river, and on the west side of a line beginning at a point in the north bounds of the State or Commonwealth of Massachusetts Bay, at the distance of twenty miles on a direct line from Hudson's river, thence running twenty miles east of Hudson's river, so far as the said river runs north-easterly in its general course; then by the west bounds of the townships granted by the late government of New Hampshire, to the river running from South Bay to Lake Champlain; thence, along said river to Lake Champlain; thence along the east side of the Lake Champlain to the latitude of forty-five degrees north; excepting only a neck of land between Missiskoy Bay and the waters of Lake Champlain:

Provided, also, that such act of accession to and recognition of the independence and sovereignty of the said people, shall be

upon this express condition, that the said people shall thereupon immediately accede, to be received into, and become a member of the Confederacy of the United States of America, to all intents and purposes whatsoever.

Provided, also, that such act of accession to, and recognition of the said independence and sovereignty of the said people, shall be upon this further condition: that the rights, titles, or claims, of any person or persons, to lands within the said territory of Vermont, by virtue of grants under the government of the late Colony or Province of New-York, shall be and remain in as full force as if this act had never passed, to be asserted, prosecuted, maintained, and determined, agreeably to the mode specified and prescribed in the 9th of the Articles of Confederation and perpetual union for the determination of controversies concerning the private right of soil claimed under different grants of two or more States; and

Provided, always, that nothing in this act contained, nor any act, matter, or thing, to be done and transacted by the delegates of this State in the Congress of the said United States of America, in and concerning the premises, or any part thereof, shall bind or oblige, or be construed, deemed, or taken to bind or oblige the Government, Legislature, people, subjects, or inhabitants of this State, until not less than eight other of the said United States of America, of which number the State of New Hampshire to be one, shall accede to, recognize, ratify, approve, and confirm the sovereignty and independence of the said people of the said Territory of Vermont.

SPEECH ON ACCEDING TO THE INDEPENDENCE OF VERMONT.

The counsel for the petitioners has entered into a large field of argument against the present bill. He has endeavored to show that it is contrary to the Constitution, to the maxims of sound policy, and to the rights of property. His observations have not been destitute of weight. They appear to have the more force,

as they are to a certain degree founded in truth. But it is the province of the committee to distinguish the just limits of the principles he has advanced; how far they extend, and where they terminate. To aid the committee in this inquiry shall be my endeavor, and following the counsel for the petitioners through the different heads of his argument, I hope to be able to show, that neither of the objections he has urged stands in the way of the measure proposed, and that the Constitution permits, policy demands it, and justice acquiesces in its adoption.

The first objection is drawn from that great principle of the social compact,—that the chief object of government is to protect the rights of individuals by the united strength of the community. The justness of this principle is not to be disputed, but its extent remains to be ascertained. It must be taken with this limitation:—The united strength of the community ought to be exerted for the protection of individuals so far as there is a rational prospect of success; so far as is consistent with the safety and well being of the whole. The duty of a nation is always limited by these considerations:—It is bound to make efforts and encounter hazards for the protection of its members, proportioned to its abilities, warranted by a reasonable expectation of a favorable issue, and compatible with its eventual security. But it is not bound to enter in or prosecute enterprises of a manifest rashness and folly; or which, in the event of success, would be productive of more mischief than good.

This qualification of the principle, can no more be denied than the principle itself. The counsel for the petitioners indeed admits it in substance, when he admits that a case of extreme necessity is an exception to the rule: but he adds that this necessity should be apparent and unequivocal.

What constitutes a case of extreme necessity, admits of no precise definition. It is always a question of fact, to be determined by a consideration of the condition of the parties and the particular circumstances of the case itself. A case of necessity then exists, when every discerning unprejudiced man, well acquainted with facts, must be convinced that a measure cannot be *undertaken* or *pursued* with a probability of success. To determine

this an experiment is not always necessary: circumstances may exist so decisive and palpable in their nature, as to render it the extreme of temerity *to begin* as well as to *continue* an experiment. The propriety of doing either the one or the other, must equally be decided by a judicious estimate of the national situation.

The tendency of the principle contended for, on the application of it in argument, has been to prove that the State ought to employ the common strength of the society to protect the rights of its citizens, interested in the district of territory in question, by reducing the revolted inhabitants of that district to an obedience to its laws. The inquiry therefore is,—Can this be done? Is the State in a situation to undertake it? Is there a probability that the object will be more attainable at a future day? Is there not rather a probability that it will be every day more out of our reach, and that leaving things in their present state, will be attended with serious dangers and inconveniences? Is it even desirable, if practicable, to reduce the people in question under subjection to this State?

In pursuing this inquiry we ought to bear in mind, that a nation is never to regulate its conduct by remote possibilities or mere contingencies, but by such probability as may reasonably be inferred from the existing state of things, and the usual course of human affairs.

With this caution, no well informed mind can be at a loss in what manner to answer the questions I have proposed. A concise review of the past, and a dispassionate consideration of the present, will enable us to judge with accuracy of the obligations and interests of the State.

The pretensions to independence of the district of territory in question, began shortly after the commencement of the late revolution. We were then engaged in a war for our existence as a people, which required the utmost exertion of our resources to give us a chance of success. To have diverted any part of them from this object to that of subduing the inhabitants of Vermont, to have involved a domestic quarrel which would have compelled that hardy and numerous body of men to throw themselves into the arms of the power with which we were then

contending, instead of joining their efforts to ours in the common cause of American liberty, as they for a long time did, with great advantage to it, would have been a species of frenzy, for which there could have been no apology, and would have endangered the fate of the revolution more than any one step we could have taken.

This idea is too obvious to need being enlarged upon. The most prejudiced will acquit the State from blame for not trying the effect of force against that people during the continuance of the war. Every moderate measure, every thing short of hostility or a total sacrifice of those rights, which were the original cause of the revolt, and which are the occasion of the opposition to the present bill, were tried. Conciliating laws were passed, overtures made, negotiations carried on in Congress, but all to no purpose.

The peace found the Vermonters in a state of actual independence, which they had enjoyed for several years—organized under a regular form of government, and increased in strength by a considerable accession of numbers. It found this State the principal seat of the war, exhausted by peculiar exertions and overwhelmed in debt. The embarrassments arising from this situation press us daily. The utmost exertion of wisdom in our public councils, would not be more than equal to extricating us from them. As matters stand, the public debts are unprovided for, and the public credit prostrate.

Are we now in a situation to undertake the reduction of Vermont; or are we likely speedily to be in such a situation? Where are our resources, where our public credit, to enable us to carry on an offensive war?

We ought to recollect, that in war, to defend or attack, are two different things: to the first, the mountains, the wilderness, the militia, sometimes even the poverty of a country will suffice. The latter requires an *army* and a *treasury*.

The population of Vermont will not be rated too high, if stated at nearly one half of that of New-York. Can any reasonable man suppose that New-York, with the load of debt the revolution has left upon it, and under a popular government, would be able to carry on with advantage an offensive war against a

people half as numerous as itself, in their own territory; a territory defended as much by its natural situation as by the numbers and hardihood of its inhabitants? Can it be imagined that it would be able, finally, to reduce such a people to its obedience? The supposition would be chimerical, and the attempt madness.

Can we hope a more favorable posture of affairs hereafter? Will not the population and strength of Vermont increase in ratio to our own? There is, perhaps, no essential difference between their government and ours. The necessity of making provision, in one way or another, for the exigencies of the Union, and for the discharge of the debts of the State, must continue to subject our citizens to heavier burthens than are borne by the inhabitants of that country, who have no call for revenue beyond the support of their domestic administration. A country possessing a fertile soil, exempt from taxes, cannot fail of having a rapid growth.

The enterprise will of course become more difficult by delay; and procrastination can only serve to render the claims of the State and its citizens, in the opinion of mankind, obsolete, and to give the consent of time to the connection which the people of Vermont have, in all appearance, already formed with the British Government. This last point I shall discuss more fully in another place.

I have confined myself in my reasoning to an examination of what is practicable on the part of this State alone. No assistance is to be expected from our neighbors. Their opinion of the origin of the controversy between this State and the people of Vermont, whether well or ill founded, is not generally in our favor; and it is notorious that the Eastern States have uniformly countenanced the independence of that country. This might suggest to us reflections that would confirm the belief of the impracticability of destroying, and the danger of attempting to destroy that independence.

The scheme of coercion would ill suit even the disposition of our own citizens. The habits of thinking to which the Revolution has given birth, are not adapted to the idea of a contest for dominion over a people disinclined to live under our govern-

ment. And, in reality, it is not the interest of the State ever to regain dominion over them by force. We shall do well to advert to the nature of our government, and to the extent of this State, according to its acknowledged limits. Are we sure we shall be able to govern what we already possess? or would it be wise to wish to try the strength of our government over a numerous body of people disaffected to it, and compelled to submit to its authority by force? For my part, I should regard the reunion of Vermont to this State as one of the greatest evils that could befall it; as a source of continual embarrassment and disquietude.

It is hinted by the counsel for the petitioners, that many of the inhabitants of Vermont are desirous of living under our government; and sanguine tempers have long ago predicted that they would shortly grow weary of their independence, throw it off, and become reunited with us and New Hampshire, of their own accord. There are clear principles of human nature, to which we may resort to falsify this prediction. In popular governments, the sentiments of the people generally take their tone from their leaders. The leaders of Vermont cannot desire a reunion with New-York, because this would amount to an abdication of their own power and consequence. The people of Vermont will not desire it; because no people ever desired to pass from a situation in which they were exempted from taxes, and in which they suffered no particular oppression, to one in which they would be subject to burthens comparatively heavy.

I pass now to an examination of the constitutionality of the measure proposed by the bill. It is observed, that by the Constitution the counties of Charlotte, Cumberland, and Gloucester, are constituent parts of the State; that one article of it declares that no power shall be exercised over the people, but such as is derived from and granted by them; that no express power is given to the Legislature to dismember any part of the State; and that this silence of the Constitution is a tacit reservation of that power to the people.

To all this I answer, that the sovereignty of the people, by our Constitution, is vested in their representatives in Senate and

Assembly, with the intervention of the Council of Revision, and, that the power of dismembering the State, under certain circumstances, is a necessary appendage of the sovereignty. The practice of nations, and the authority of writers, conspire to establish this principle; and the safety of society requires it. There are certain situations of kingdoms and States, in which the sacrifice of a part is essential to the preservation or welfare of the rest.

History furnishes abundant examples of such sacrifices. Nations, in making peace, frequently cede parts of their territories to each other. Civil commotions have many times produced similar dismemberments. The monarchy of Spain, after a destructive and fruitless contest to preserve it, was obliged, at last, to surrender its dominion over the Netherlands. The crown of Austria was, in like manner, compelled to abandon its jurisdiction over the Swiss Cantons. And the United States are a recent, and still more signal instance of the exercise of the same right. Neither of these instances has been censured or condemned, nor the power of the sovereign to accede to the separation called in question.

The celebrated author quoted by the counsel for the petitioners, is explicit on this article, and decides with clearness that the prince or body intrusted with the sovereign authority, may, in certain emergencies, dismember the empire, and lop off a limb for the good of the body. This inference from the silence of a Constitution, is the reverse of that drawn by the counsel of the petitioners. Doubts have been raised by particular theorists upon the subject; but their theories were too abstract for practice, and are now exploded by the ablest writers on the laws of nations. Indeed, those doubts were chiefly applied to the case of a cession, or relinquishment, of a part of the empire still in possession of the sovereign. It has long been considered as a clear point, that where a part of an empire is *actually severed*, by conquest, or a revolution, the prince, or body vested with the administration of the government, has a right to assent to and to ratify that separation. This is an obvious and important distinction; from which other inferences of moment will be drawn in another place. It will be found in Vattel, book four, chapter second.

Vermont is, in fact, severed from New-York, and has been so for years. There is no reasonable prospect of recovering it, and the attempt would be attended with certain and serious calamities. The Legislature have, therefore, an undoubted right to relinquish it, and policy dictates that it should be done.

It is of no force to say that this principle would authorize the dismemberment of Long Island, or of any other part of the State. There is no doubt, the same circumstances concurring, the same consequences would result, but not sooner; and it will be the duty of the State to endeavor to prevent a similar extremity.

The next thing in the order observed by the counsel for the petitioners that presents itself to our discussion is the policy of the measure.

Against this it is objected, that the precedent would be dangerous, that the facility with which the Vermonters will have accomplished their object, might invite other parts of this State and the United States to follow their example.

To this I answer, that examples have little to do with the revolutions of empire. Wherever such a state of things exists as to make it the interest or the inclination of a large body of people to separate from the society with which they have been connected, and at the same time to afford a prospect of success, they will generally yield to the impulse, without much inquiry or solicitude about what has been done by others, or upon other occasions; and when this is not the case, precedents will never create the disposition. Events of this kind are not produced or controlled by the ordinary operations of human policy, care or contrivance.

But, whatever may be the effect of the example, it is too late to prevent or redress the evil. It sprang up under circumstances which forbade the application of an effectual remedy, and it has now acquired a maturity which would mock all our efforts to counteract it. Vermont is lost to New-York, beyond the possibility of a recovery; and a passive acquiescence in its independence cannot make it more formidable, as an example, than a direct recognition of it. Success and impunity are the

ingredients that are to constitute the force of the example, and these will exist in either case.

On the other hand, the policy of the measure results from two important considerations. The one, that by the union of Vermont to the Confederacy, it must of course bear a proportion of the public burdens; the other, that it would be detached from the completion of a connection, already in all appearance begun with a foreign power. The incorporation of Vermont into the Confederacy is by the bill made an express condition of the acknowledgment of their independence.

The first advantage was too obvious to be denied, though observations have been made to diminish its importance. Its inland situation has been noted as a circumstance that precluded the expectation of any considerable revenue from it. But the same thing might be said of the interior parts of this and of the other States; and yet we should make a much worse figure than we do if our resources were to be drawn wholly from our Atlantic settlements. The country of Vermont is fertile and will soon be populous, and the resources which it may be capable of affording at a day not far remote, though not of great magnitude, will by no means be contemptible.

But the principal advantage to be expected from the measure is the one mentioned last. Here it is asked, Where is the evidence of the fact, where the proof of the connection? Would Great Britain, which has so recently, in a solemn treaty, acknowledged the territory in question to be comprehended within the limits of the United States, derogate from that treaty, and for so insignificant an object, as a connection with a small corner of one of the States, hazard a rupture with the whole Confederacy?

Not expecting a formal call for the evidence of the fact, my memory is not prepared to enter into all the details requisite to its full elucidation. I well remember that during the latter periods of the war, a variety of circumstances produced a conviction of its existence every where; in the army, in the Legislature, and in Congress. Among other transactions that came to my knowledge, I shall mention one as nearly as my recollection will serve me. Some time in the year 1781, *Fay*, and *Ira Allen*, two of the most

influential individuals in that country, went into Canada, and we were well informed had repeated interviews with General Haldimand. Not long after, a party of the British under St. Leger, penetrated as far as Ticonderoga.

A detachment from that body fell in by accident with a small party of Vermonters, fired upon them, killed one of their number, and took the rest prisoners. Discovering their mistake, they interred the dead body with the honors of war, and sent the prisoners home loaded with kindnesses and caresses. From that period a free intercourse subsisted between Canada and Vermont. This is one proof, and a pretty decisive one, to show that a connection was formed during the war. I doubt not there are others equally strong, within the recollection of other members of the committee. Since the peace, this intercourse has been cultivated with reciprocal zeal, and there are circumstances related (which I shall not repeat, as they do not come to me with sufficient authenticity) that look strongly to a continuance of the connection.

If this connection ever existed, what reason have we to believe that it has been since dissolved? To me, I confess, there appears none. On the contrary, the situation of the parties in my opinion forbid the supposition of its dissolution.

I flatter myself, those who know my manner of thinking, will acquit me of a disposition to sow groundless jealousies of any nation. I consider a conduct of this kind, as undignified and indelicate in a public character; and if I were not persuaded the suspicions I entertain are well founded, no motive would have induced me to bring them forward.

It is asked, in substance, what object Great Britain can have in cultivating such connection. This admits of several answers.

Great Britain cannot but see our governments are feeble and distracted; that the UNION wants energy; the nation concert. That our public debts are unprovided for; our federal treasuries empty; our trade languishing. She may flatter herself that this state of things will be productive of discontents among the people; and that these discontents may lead to a voluntary return to her dominion. She may hope to see in this country a counterpart of the restoration of Charles the Second. However

mistaken they may be, it is not impossible, that speculations of this kind may enter into the head of a British minister.

The government lately established in Canada—the splendid title of Viceroy—seem to look beyond the dreary regions of Canada and Nova Scotia.

In this view, she would naturally lay hold of Vermont as a link in the chain of events. It would be a positive acquisition of so much, and nothing could better answer the purpose of accelerating the progress of discontent than the example of a country, part of ourselves, comparatively speaking, free from taxes. Nothing could have a more powerful influence than such an example upon the inhabitants of the settlements bordering upon that country. How far and how rapidly it might extend itself is a matter not easy to be calculated.

But laying aside every supposition of this nature there are motives of interest which would dispose the British government to cultivate Vermont. A connection with Vermont will hereafter conduce to the security of Canada, and to the preservation of the Western posts. That Great Britain means to retain these posts may be inferred from the interest she has in doing it. The ostensible reason for not having delivered them up heretofore is the infractions of the treaty on our part; but though these infractions in some instances cannot be denied, it may fairly be presumed, that they are nothing more than the pretext for withholding the posts, while the true motive is the prodigious advantage which the monopoly of the fur trade affords to the commerce of the English nation.

If Great Britain has formed the design of finally retaining those posts, she must look forward sooner or later to a rupture with this country; for, degraded as we are by our mismanagement, she can hardly entertain so mean an opinion of us as to expect we shall eventually submit to such a violation of our rights and interests without a struggle. And, in such a case, Vermont would be no despicable auxiliary.

But would Great Britain hazard a war with the United States for so inconsiderable an object?

In the first place, the object is not inconsiderable. In the

next, our situation is not such as to render our resentment formidable. This situation is perhaps better understood by every body else than ourselves; and no nation would forego a present advantage to our detriment, while it knew that a change of government must precede any inconveniencies from our displeasure.

I do not suppose that the British government would, in the present state of things, commit itself to any avowed engagements with the people of Vermont. It will, no doubt, take care to be in such a situation as to leave itself at liberty to act according to circumstances; but it will, and I have no doubt does, by the intermediation of its officers, keep up a secret intercourse with the leaders of that people, to endeavor gradually to mould them to its interest, to be ready to convert them to its own purposes upon any favorable conjuncture or future emergency. This policy is so obvious and safe, that it would be presumable without any evidence of its existence.

On the part of Vermont, while their fate in the American scale remains suspended, considerations of safety would direct them to such a connection with the British government. They would not choose to lie at our mercy, or to depend on their strength, if they could find refuge and support elsewhere.

There is a circumstance, too, mentioned with a different view by the council for the petitioners, which would contribute to this connection. I mean the relative situation of Canada and Vermont. It is asked, "May not this situation induce Vermont to regret the offer of independence, and prompt the people of that country, for the sake of commerce, to form still closer connections with a foreign power?" I ask, does not this situation, which it is supposed might have so powerful an influence, afford a strong presumption of the existence of such a connection? And is it not our true policy to take away every additional temptation?

I shall readily admit that it is very doubtful whether Vermont will accept the proffered acknowledgment of its independence, upon the condition annexed. I firmly believe that she does not desire it, and that she would be perplexed by the

dilemma to which she would be reduced. But whether she accepts it or not, the offer may be expected to have a good effect. It would at least serve to ascertain facts. Her refusal would be a conclusive evidence of a determined predilection to a foreign connection; and it would show the United States the absolute necessity of combining their efforts to subvert an independence so hostile to their safety. If they should find themselves unequal to the undertaking, it must operate as a new inducement to the several States to strengthen the UNION.

In every light, therefore, the measure on national ground appears advisable; but it still remains to inquire what will be our duty in respect to the citizens of this State, who are owners of land in Vermont. How far shall we violate their rights, and how far are we bound to make them compensation?

The claim to a compensation is the thing which has been with most propriety urged by the counsel for the petitioners. Let us, however, examine its nature and foundation.

But, before I enter into this examination, I shall repeat an observation which I made on a former occasion. Whatever obligations there may be on the part of the State cannot be increased by acceding to the measure proposed. If Vermont is not irretrievably lost to this State, the duty of protection which it owes to individuals, obliges it to employ the common strength to reinstate them in their rights. If it is irretrievably lost, no rights capable of being rendered effective will be sacrificed; of course, no obligation to making a recompense will exist.

But the truth is, the present bill, so far from surrendering the rights of individuals, puts things in the only train in which they will ever have an opportunity of giving them validity. The third clause of the ninth article of the Confederation expressly declares that all controversies about the right of soil between the citizens of different States, shall be decided by a federal court. The counsel for the petitioners tells us that *his clients* doubt the operation of this clause, but as he gives us no reason for the doubt, I shall only say that the terms of it appear to me clear and explicit.

I have no doubt that the petitioners would be entitled to a

federal court; and though that court would not decide in such a question like the tribunals of New York, but upon general principles of natural and political right, I should confidently expect that all equitable claims of our citizens would have their full effect.

It is, however, further observed on this head, that the expense of such court would exceed the abilities of individuals, and could only be compassed by the resources of sovereign States.

If this suggestion should be admitted to be true, (though I think the expense is greatly overrated,) yet surely it would be more reasonable to ask the State for its assistance in procuring a federal court to obtain justice to the petitioners, than to ask it to undertake a ruinous war for that purpose. The difference in expense would not bear a comparison. Indeed, the first would be a trifling object to the State, while the last would exceed its abilities, and perhaps end in its disgrace.

But if the bill even contained no provision for obtaining justice to the petitioners, I should hold that the State would not be under a strict obligation to recompense them for their losses. The distinction I would lay down upon the subject is this: If a government voluntarily bargains away the rights, or disposes of the property of its citizens, in their enjoyment, possession or power, it is bound to make compensation for the thing of which it hath deprived them; but if they are actually dispossessed of those rights, or that property, by the casualties of war, or a revolution, the State, if the public good requires it, may abandom them to the loss without being obliged to make reparation. The author quoted by the counsel for the petitioners, has in view the case of a voluntary disposition of the property of citizens in the power of the State; and his doctrine is unquestionably just, but it does not apply to the case of an actual dispossession by any of those events in which nations have no choice. In wars between States, the sovereign is never supposed to be bound to make good the losses which the subject sustains by the captures or ravages of the enemy, though they should amount to the destruction of his whole property; and yet nothing can be more agreeable to natural equity than that those who happen to be the unlucky victims of the war should be indemnified by the

community. But, in practice, such a principle would be found attended with endless difficulties and inconveniences; and therefore the reverse of it has been adopted as a general rule. The individual sufferer, however, might with great color of justice, say to the government, Why did you make peace without stipulating a reparation for the damage done to your citizens? If it was necessary for the public good to sacrifice my interests, I have a right to a public compensation for my losses.

Though this case may, upon a superficial view, appear dissimilar to the one under consideration, yet the principle upon examination will be found as applicable to the one as to the other. The true reason is, that the resources of nations are not adequate to the reparation of such extensive losses as those which are commonly occasioned by wars and revolutions; and it would therefore be contrary to the general good of society to establish it as a rule that there is a strict obligation to repay such losses. It is better that there should be individual sufferers than to admit a rule which would fetter the operations of government and distress the affairs of the community.

Generosity and policy may, in particular instances, dictate such compensation. Sometimes they have been made by nations, but much oftener omitted. The propriety of doing the one or the other must depend on circumstances in which the ability of the public will always be a primary consideration.

I think, sir, I have by this time gone through all the arguments that have been brought against the bill, and I hope satisfactorily refuted them.

I shall say a little in answer to the observations drawn from the examples of Roman magnanimity. Neither the manners nor the genius of Rome are suited to the republic or to the age we live in. All her maxims and habits were military; her government was constituted for war. Ours is unfit for it; and our situation still less than our Constitution, invites us to emulate the conduct of Rome, or to attempt a display of unprofitable heroism.

One more observation will conclude what I have to say. The present situation of our national affairs appears to me peculiarly critical. I know not what may be the result of the disor-

dered state of our Government. I am, therefore, the more solicitous to guard against danger from abroad. Gentlemen who view our public affairs in the same light in which they present themselves to my mind, will, I trust, vote with me upon the present occasion. Those, on the contrary, who think all is well—who suppose our Government is full of energy, our credit high, and trade and finances flourishing—will probably see no room for any anxiety about the matter, and may be disposed to leave Vermont in its present state. If the bill should fail I hope they will never have occasion to regret the opportunity they have lost.

As to the petitioners, I shall only say, that I have no reason to doubt the purity of the motives with which they are actuated. With many of them I am too well acquainted to permit me to entertain any unfavorable impression of their conduct; but, however their opinion of their own rights or interests may have misled them in estimating the merits of the question before the committee, I trust we shall be cautious how we suffer our judgment of a national question to be biassed or misguided by the speciousness of the arguments, or appearances on which their opposition is supported.

REPEAL OF ALL ACTS INCONSISTENT WITH THE TREATY.

An act to amend an act entitled "An act relative to debts due to persons within the enemy's lines, and another act entitled An act to explain and amend the act entitled An act relative to debts due to persons within the enemy's lines." April 20, 1787.

Speech on the passage of this Act.

1787.

Mr. Hamilton expressed great uneasiness that any opposition should be made to this bill; particularly as this State was individually interested therein. He felt greater regret, from a conviction in his own mind, on this occasion, that the bill should be objected

to, as there was not a single law in existence in this State, in direct contravention of the treaty of peace. He urged the committee to consent to the passing of the bill, from the consideration that the State of New-York was the only State to gain any thing by a strict adherence to the treaty. There was no other State in the Union that had so much to expect from it. The restoration of the western posts, was an object of more than a £100,000 per annum. Great Britain, he said, held those posts, on the plea that the United States have not fulfilled the treaty, and which we have strong assurances she will relinquish, on the fulfilment of our engagements with her. But how far Great Britain might be sincere in her declaration was unknown; indeed he doubted it himself. But while he doubted the sincerity of Great Britain, he could not but be of opinion that it was the duty of this State to enact a law for the repeal of all laws which may be against the said treaty, as by doing away all exceptions, she would be reduced to a crisis. She would be obliged to show to the world whether she was in earnest or not, and whether she will sacrifice her honor and reputation to her interest. With respect to the bill, as it was drafted in conformity to the recommendation of Congress, he viewed it as a wise and a salutary measure, one calculated to meet the approbation of the different States, and most likely to answer the end proposed. Were it possible to examine an intricate maze of laws, and to determine which of them, or what parts of laws, were opposed to the treaty, it still might not have the intended effect, as different parties would have the judging of this matter. What one should say was a law not inconsistent with the peace, another might say was so; and there would be no end, no decision of the business. Even some of the States might view laws in a different manner. The only way to comply with the treaty, was to make a general and unexceptionable repeal. Congress, with an eye to this, had proposed a general law, from which the one before them was a copy. He thought it must be obvious to every member of the committee, that as there was no law in direct opposition to the treaty, no difficulty could arise from passing the bill.

Some gentlemen, he observed, were apprehensive that this

bill would restore the confiscated estates, &c. This he did not admit. However, if they were so disposed they might add a proviso to prevent it. He had written one, which any of the gentlemen might move, if they thought it necessary; in his opinion, it was not.

The treaty only provided that no future confiscations should take place; and that Congress should *earnestly recommend* a restoration of property. But there was nothing obligatory in this.

If this State should not come into the measure, would it not be a very good plea for the other States to favor their own citizens, and say, "Why should we do this, when New-York, the most interested of any of the States, refuses to adopt it? and shall we suffer this imputation when, in fact, we have no laws in existence that militate against the treaty? He stated the great disadvantages that our merchants experienced from the western posts being in the hands of the British, and asked if it was good policy to let them remain so.

It had been said, that the Judges would have too much power;—this was a misapprehension. He stated the powers of the judges with great clearness and precision. He insisted that their powers would be the same, whether this law was passed or not. For, as all treaties were known by the Constitution as the laws of the land, so must the judges act on the same, any law to the contrary notwithstanding.

Cicero, the great Roman orator and lawyer, lays it down as a rule, that when two laws clash, that which relates to the most important matters ought to be preferred? If this rule prevails, who can doubt what would be the conduct of the judges, should any laws exist inconsistent with the treaty of peace? But it would be impolitic to leave them to the dilemma, either of infringing the treaty to enforce the particular laws of the State, or to explain away the laws of the State to give effect to the treaty.

He declared that the full operation of the bill would be no more than merely to declare the treaty the law of the land. And that the judges, viewing it as such, shall do away all laws that may appear in direct contravention of it. Treaties were known constitutionally to be the law of the land, and why be afraid to

leave the interpretation of those laws to the judges? The Constitution knows them as the interpreters of the law. He asked if there was any member of the committee who would be willing to see the first treaty of peace ever made by this country violated. This he did not believe. He could not think that any member on that floor harbored such sentiments.

He was in hopes the committee would agree with him in sentiment, and give a proof of their attachment to our national engagements by passing the bill, which would do away every exception of the British court.

FEDERAL CONVENTION.

PROPOSITIONS FOR A CONSTITUTION OF GOVERNMENT.

By Hamilton, 1787.

I. The supreme legislative power of the United States of America to be vested in two distinct bodies of men; the one to be called the *Assembly*, the other the *Senate;* who together shall form the legislature of the United States, with power to pass *all laws whatsoever*, subject to the *negative* hereafter mentioned.

II. The Assembly to consist of persons elected *by the people*, to serve for three years.

III. The Senate to consist of persons elected to serve during *good behavior*. Their election to be made by *electors* chosen for that purpose by the people. In order to this the States to be divided into election districts. On the death, removal, or resignation of any Senator, his place to be filled out of the district from which he came.

IV. The supreme executive authority of the United States to be vested in *a Governor*, to be elected to serve *during good behavior*. His election to be made by *electors* chosen by *electors* chosen by the people, in the election districts aforesaid; or by electors chosen for that purpose by the respective legislatures—provided that if an election be not made within a limited time,

the President of the Senate shall be the Governor. The Governor to have *a negative* upon all laws about to be passed—and (to have) the execution of all laws passed—(to be the commander-in-chief of the land and naval forces and of the militia of the United States)—to have the entire direction of war when authorized or began—to have, with the *advice* and *approbation* of the Senate, the power of making all treaties—to have the appointment of the *heads* or *chief* officers of the departments of finance, war, and foreign affairs—to have the *nomination* of all other officers (ambassadors to foreign nations included), subject to the approbation or rejection of the Senate—to have the power of pardoning all offences but *treason*, which he shall not pardon without the approbation of the Senate.

V. On the death, resignation, or removal of the Governor, his authorities to be exercised by the President of the Senate (until a successor be appointed).

VI. The Senate to have the sole power of *declaring war*—the power of advising and approving all treaties—the power of approving or rejecting all appointments of officers, except the heads or chiefs of the departments of finance, war, and foreign affairs.

VII. The supreme judicial authority of the United States to be vested in twelve Judges, to hold their offices during good behavior, with adequate and permanent salaries. This court to have original jurisdiction in all causes of capture and an appellate jurisdiction (from the courts of the several States) in all causes in which the revenues of the General Government or the citizens of foreign nations are concerned.

VIII. The Legislature of the United States to have power to institute courts in each State for the determination of all causes of capture and of all matters relating to their revenues, or in which the citizens of foreign nations are concerned.

IX. The Governor, Senators, and all officers of the United States to be liable to impeachment for mal and corrupt conduct, and upon conviction to be removed from office, and disqualified for holding any place of trust or profit. All impeachments to be tried by a court, to consist of the judges of the Supreme

Court, chief or senior judge of the superior court of law of each State—provided that such judge hold his place during good behavior and have a permanent salary.

X. All laws of the particular States contrary to the Constitution or laws of the United States to be utterly void. And the better to prevent such laws being passed the Governor or President of each State shall *be appointed by the General Government*, and shall have a *negative* upon the laws about to be passed in the State of which he is Governor or President.

XI. No State to have any forces, land or naval—and the *militia* of all the States to be under the sole and *exclusive direction* of the United States, *the officers* of which to be appointed and commissioned by them.

CONSTITUTION OF GOVERNMENT BY THE PEOPLE OF THE UNITED STATES OF AMERICA.

First Draft of Hamilton, 1787.

The people of the United States of America do ordain and establish this Constitution for the government of themselves and their posterity.

Article I.

Sec. 1. The legislative power shall be vested in two distinct bodies of men, one to be called the Assembly, the other the Senate, subject to the negative hereinafter mentioned.

Sec. 2. The executive power, with the qualifications hereinafter specified, shall be vested in a President of the United States.

Sec. 3. The supreme judicial authority, except in the cases otherwise provided for in this Constitution, shall be vested in a court, to be called the Supreme Court, to consist of not less than six, nor more than twelve judges.

ARTICLE II.

Sec. 1. The Assembly shall consist of persons to be called Representatives, who shall be chosen, except in the first instance, by the free male citizens and inhabitants of the several States comprehended in the Union, all of whom, of the age of twenty-one years and upwards, shall be entitled to an equal vote.

Sec. 2. But the first Assembly shall be chosen in the manner prescribed in the last Article, and shall consist of one hundred members, of whom New Hampshire shall have five, Massachusetts thirteen, Rhode Island two, Connecticut seven, New-York nine, New Jersey six, Pennsylvania twelve, Delaware two, Maryland eight, Virginia sixteen, North Carolina eight, South Carolina eight, Georgia four.

Sec. 3. The Legislature shall provide for the future elections of representatives, apportioning them in each State, from time to time, as nearly as may be to the number of persons described in the 4th Section of the 7th Article, so as that the whole number of representatives shall never be less than one hundred, nor more than hundred. There shall be a census taken for this purpose within three years after the first meeting of the Legislature, and within every successive period of ten years. The term for which representatives shall be elected shall be determined by the Legislature, but shall not exceed three years. There shall be a general election at least once in three years, and the time of service of all the members in each Assembly shall begin (except in filling vacancies) on the same day, and shall always end on the same day.

Sec. 4. Forty members shall make a house sufficient to proceed to business; but this number may be increased by the Legislature, yet so as never to exceed a majority of the whole number of representatives.

Sec. 5. The Assembly shall choose its President and other officers, shall judge of the qualifications and elections of its own members, shall punish them for improper conduct in their capacity of representatives, not extending to life or limb, and shall exclusively possess the power of impeachment, except in the case

of the President of the United States; but no impeachment of a member of the Senate shall be by less than two-thirds of the representatives present.

Sec. 6. Representatives may vote by proxy, but no representative present shall be proxy for more than one who is absent.

Sec. 7. Bills for raising revenue, and bills for appropriating moneys for the support of fleets and armies, and for paying the salaries of the officers of government, shall originate in the Assembly, but may be altered and amended by the Senate.

Sec. 8. The acceptance of an office under the United States by a representative, shall vacate his seat in the Assembly.

ARTICLE III.

Sec. 1. The Senate shall consist of persons to be chosen, except in the first instance, by electors elected for that purpose by the citizens and inhabitants of the several States comprehended in the Union, who shall have in their own right, or in the right of their wives, an estate in land for not less than life, or a term of years, whereof at the time of giving their votes there shall be at least fourteen years unexpired.

Sec. 2. But the full Senate shall be chosen in the manner prescribed in the last Article, and shall consist of forty members, to be called Senators, of whom New Hampshire shall have , Massachusetts , Rhode Island , Connecticut , New-York , New Jersey , Pennsylvania , Delaware , Maryland , Virginia , North Carolina , South Carolina , Georgia .

Sec. 3. The Legislature shall provide for the future elections of Senators; for which purpose the States respectively, which have more than one Senator, shall be divided into convenient districts to which the Senators shall be apportioned. A State having but one Senator shall be itself a district. On the death, resignation, or removal from office of a Senator, his place shall be supplied by a new election in the district from which he came. Upon each election there shall not be less than six nor more than twelve electors chosen in a district.

Sec. 4. The number of Senators shall never be less than forty, nor shall any State, if the same shall not hereafter be divided, ever have less than the number allotted to it in the second Section of this Article; but the Legislature may increase the whole number of Senators, in the same proportion to the whole number of representatives as forty is to one hundred, and such increase, beyond the present number, shall be apportioned to the respective States in a ratio to the respective numbers of their representatives.

Sec. 5. If States shall be divided, or if a new arrangement of the boundaries of two or more States shall take place, the Legislature shall apportion the number of Senators (in elections succeeding such division or arrangement) to which the constituent parts were entitled according to the change of situation, having regard to the number of persons described in the 4th Section of the 7th Article.

Sec. 6. The Senators shall hold their places, during good behavior, removable only by conviction, on impeachment for some crime or misdemeanor. They shall continue to exercise their offices when impeached, until a conviction shall take place. Sixteen Senators attending in person, shall be sufficient to make a house to transact business; but the Legislature may increase this number, yet so as never to exceed a majority of the whole number of Senators. The Senators may vote by proxy, but no Senator who is present shall be proxy for more than two who are absent.

Sec. 7. The Senate shall choose its President and other officers; shall judge of the qualifications and elections of its members; and shall punish them for improper conduct in their capacity of Senators; but such punishment shall not extend to life or limb, nor to expulsion. In the absence of their President they may choose a temporary President. The President shall only have a casting vote when the House is equally divided.

Sec. 8. The Senate shall exclusively possess the power of declaring war. No treaty shall be made without their advice and consent; which shall also be necessary to the appointment of all officers, except such for which a different provision is made in this Constitution.

ARTICLE IV.

Sec. 1. The President of the United States of America (except in the first instance) shall be elected in the manner following:

The judges of the Supreme Court shall, within sixty days after a vacancy shall happen, cause public notice to be given in each State of such vacancy, appointing therein three several days, for the several purposes following, to wit—a day for commencing the election of electors for the purposes hereinafter specified, to be called the first electors, which day shall be not less than forty nor more than sixty days after the day of the publication of the notice in each State; another day for the meeting of the electors, not less than forty nor more than ninety days from the day for commencing their election. Another day for the meeting of electors, to be chosen by the first electors, for the purpose hereinafter specified, and to be called the second electors, which day shall be not less than forty nor more than sixty days after the day for the meeting of the first electors.

Sec. 2. After notice of a vacancy shall have been given, there shall be chosen in each State a number of persons, as the first electors in the preceding Section mentioned, equal to the whole number of the representatives and Senators of such State, in the Legislature of the United States; which electors shall be chosen by the citizens of such State, having an estate of inheritance or for three lives in land, or a clear personal estate of the value of one thousand Spanish milled dollars of the present standard.

Sec. 3. These first electors shall meet in their respective States at the time appointed, at one place, and shall proceed to vote by ballot for a President, who shall not be one of their own number, unless the Legislature, upon experiment, should hereafter direct otherwise. They shall cause two lists to be made of the name or names of the person or persons voted for, which they, or the major part of them, shall sign and certify. They shall then proceed each to nominate individually, openly, in the

presence of the others, two persons, as for second electors, and out of the persons who shall have the four highest numbers of nominations; they shall afterwards, by ballot, by plurality of votes, choose two who shall be the second electors, to each of whom shall be delivered one of the lists, before-mentioned. These second electors shall not be any of the persons voted for as President. A copy of the same list, signed and certified in like manner, shall be transmitted by the first electors, to the seat of the government of the United States, under a sealed cover, directed to the President of the Assembly, which, after the meeting of the second electors shall be opened, for the inspection of the two houses of the Legislature.

Sec. 4. These second electors shall meet precisely on the day appointed, and not on another day, at one place. The chief justice of the Supreme Court, or if there be no chief justice, the judge junior in office, in such court, or if there be no one judge junior in office, some other judge of that court, by the choice of the rest of the judges, or of a majority of them, shall attend at the same place, and shall preside at the meeting, but shall have no vote. Two thirds of the whole number of the electors shall constitute a sufficient meeting for the execution of their trust. At this meeting, the lists delivered to the respective electors, shall be produced and inspected, and if there be any person who has a majority of the whole number of the votes given by the first electors, he shall be the President of the United States; but if there be no such person, the second electors so met shall proceed to vote by ballot, for one of the *persons*, named in the lists, *who* shall have the three highest numbers of the votes of the first electors; and if upon the first, or any succeeding ballot, on the day of the meeting, either of those persons shall have a number of votes, equal to a majority of the whole number of second electors chosen, he shall be the President. But if no such choice be made, on the day appointed for the meeting, either by reason of the non-attendance of the second electors, or their not agreeing, or any other matter, the person having the greatest number of votes of the first electors shall be the President.

Sec. 5. If it should happen that the chief justice or some other judge of the Supreme Court, should not attend in due time, the second electors shall proceed to the execution of their trust without him.

Sec. 6. If the judges should neglect to cause the notice required by the first section of this article to be given within the time therein limited, they may, nevertheless, cause it to be afterwards given; but their neglect, if wilful, is hereby declared to be an offence, for which they may be impeached, and if convicted, they shall be punished as in other cases of conviction on impeachment.

Sec. 7. The Legislature shall, by permanent laws, provide such further regulations as may be necessary for the more orderly election of the President, not contravening the provisions herein contained.

Sec. 8. The President, before he shall enter upon the execution of his office, shall take an oath or affirmation, faithfully to execute the same, and to the utmost of his judgment and power to protect the rights of the people, and preserve the Constitution inviolate. This oath or affirmation shall be administered by the President of the Senate, for the time being, in the presence of both houses of the Legislature.

Sec. 9. The Senate and the Assembly shall always convene in session on the day appointed for the meeting of the second electors, and shall continue sitting till the President take the oath or affirmation of office. He shall hold his office during good behavior, removable only by conviction upon an impeachment for some crime or misdemeanor.

Sec. 10. The President, at the beginning of every meeting of the Legislature, as soon as they shall be ready to proceed to business, shall convene them together at the place where the Senate shall sit, and shall communicate to them all such matters as may be necessary for their information, or as may require their consideration. He may, by message, during the session, communicate all other matters which may appear to him proper. He may, whenever in his opinion the public business shall require it, convene the Senate and Assembly, or either of them,

and may prorogue them for a time, not exceeding forty days at one prorogation; and if they should disagree about their adjournment, he may adjourn them to such time as he shall think proper. He shall have a right to negative all bills, resolutions, or acts of the two houses of the Legislature, about to be passed into laws. He shall take care that the laws be faithfully executed. He shall be the Commander-in-Chief of the army and navy of the United States and of the militia within the several States, and shall have the direction of war, when commenced; but he shall not take the actual command in the field of an army, without the consent of the Senate and Assembly. All treaties, conventions, and agreements with foreign nations, shall be made by him, by and with the advice and consent of the Senate. He shall have the appointment of the principal or chief officer of each of the departments of war, naval affairs, finances, and foreign affairs; and shall have the nomination, and, by and with the consent of the Senate, the appointment of all other officers to be appointed under the authority of the United States, except such for whom different provision is made by this Constitution; and provided, that this shall not be construed to prevent the Legislature from appointing, by name, in their laws, persons to special and particular trusts, created in such laws; nor shall be construed to prevent principals in office, merely ministerial, from constituting deputies. In the recess of the Senate he may fill vacancies in offices, by appointments, to continue in force until the end of the next session of the Senate; and he shall commission all officers. He shall have power to pardon all offences except treason, for which he may grant reprieves, until the opinion of the Senate and Assembly can be had, and with their concurrence, may pardon the same.

Sec. 11. He shall receive a fixed compensation for his services, to be paid to him at stated times, and not to be increased or diminished during his continuance in office.

Sec. 12. If he depart out of the United States without the consent of the Senate and Assembly, he shall thereby abdicate his office.

Sec. 13. He may be impeached for any crime or misde-

meanor by the two houses of the Legislature, two-thirds of each house concurring; and if convicted, shall be removed from office. He may be afterwards tried and punished in the ordinary course of law. His impeachment shall operate as a suspension from office until the determination thereof.

Sec. 14. The President of the Senate shall be Vice-President of the United States. On the death, resignation, impeachment, removal from office, or absence from the United States, of the President thereof, the Vice-President shall exercise all the powers by this Constitution vested in the President, until another shall be appointed, or until he shall return within the United States, if his absence was with the consent of the Senate and Assembly.

ARTICLE V.

Sec. 1. There shall be a Chief Justice of the Supreme Court, and, together with the other Judges thereof, shall hold their offices during good behavior, removable only by conviction on impeachment for some crime or misdemeanor. Each Judge shall have a competent salary, to be paid to him at stated times, and not to be diminished during his continuance in office.

The Supreme Court shall have original jurisdiction in all causes, in which the United States shall be a party; in all controversies between the United States and a particular State, or between two or more States, except such as relate to a claim of territory between the United States and one or more States, which shall be determined in the mode prescribed in the Sixth Article; in all cases affecting foreign ministers, consuls, and agents; and an appellate jurisdiction, both as to law and fact, in all cases which shall concern the citizens of foreign nations, in all questions between the citizens of different States, and in all others in which the fundamental rights of this Constitution are involved, subject to such exceptions as are herein contained, and to such regulations as the Legislature shall provide.

The Judges of all Courts which may be constituted by the Legislature, shall also hold their places during good behavior, removable only by conviction on impeachment for some crime

or misdemeanor; and shall have competent salaries, to be paid at stated times, and not to be diminished during their continuance in office; but nothing herein contained shall be construed to prevent the Legislature from abolishing such Courts themselves.

All crimes, except upon impeachment, shall be tried by a jury of twelve men; and if they shall have been committed within any State, shall be tried within such State. And all civil causes arising under this Constitution of the like kind with those which have been heretofore triable by jury in the respective States, shall in like manner be tried by jury, unless in special cases the Legislature shall think proper to make different provision, to which provision the concurrence of two-thirds of both houses shall be necessary.

Impeachments of the President and Vice-President of the U. S., members of the Senate, the Governors and Presidents of the several States, the principal or chief officers of the departments enumerated in the Tenth Section of the Fourth Article, ambassadors, and other like public ministers, the judges of the Supreme Court, generals and admirals of the navy, shall be tried by a Court to consist of the Judges of the Supreme Court, and the Chief Justice, or First or Senior Judge of the Superior Court of Law in each State, of whom twelve shall constitute a Court. A majority of the Judges present may convict. All other persons shall be tried on impeachment, by a Court to consist of the Judges of the Supreme Court, and six Senators drawn by lot; a majority of whom may convict. Impeachments shall clearly specify the particular offence for which the party accused is to be tried; and judgment on conviction upon the trial thereof, shall be either a removal from office singly, or removal from office and disqualification for holding any future office or place of trust. But no judgment on impeachment shall prevent prosecution and punishment in the ordinary course of law, provided that no judge, concerned in such conviction, shall sit as judge on the second trial. The Legislature may remove the disabilities incurred by conviction on impeachment.

ART. VI.

Controversies about the right of territory between the United States and particular States, shall be determined by a court to be constituted in manner following. The State or States claiming in opposition to the United States, as parties, shall nominate a number of persons equal to double the number of the Judges of the Supreme Court, for the time being, of whom none shall be citizens by birth of the States which are parties, nor inhabitants thereof, when nominated, and of whom not more than two shall have their actual residence in one State. Out of the persons so nominated, the Senate shall elect one-half, who, together with the Judges of the Supreme Court, shall form the court. Two-thirds of the whole number may hear and determine the controversy by plurality of voices. The States concerned, may, at their option, claim a decision by the Supreme Court only. All the members of the court hereby instituted shall, prior to the hearing of the cause, take an oath impartially, and according to the best of their judgments and consciences, to hear and determine the controversy.

ARTICLE VII.

Sec. 1. The Legislature of the United States shall have power to pass all laws which they shall judge necessary to the common defence and safety, and to the general welfare of the Union. But no bill, resolution, or act of the Senate and Assembly, shall have the force of a law until it shall have received the assent of the President, or of the Vice-President when exercising the powers of the President; and if such assent shall not have been given within ten days after such bill, resolution, or other act shall have been presented for that purpose, the same shall not be a law. No bill, resolution, or other act, not assented to, shall be revived in the same session of the Legislature. The mode of signifying such assent shall be by signing the bill, act, or resolution, and returning it so signed to either house of the Legislature.

Sec. 2. The enacting style of all laws shall be: "Be it enacted by the people of the United States of America."

Sec. 3. No bill of attainder shall be passed, nor any ex post facto law; nor shall any title of nobility be granted by the United States or by either of them; nor shall any person holding an office or place of trust under the United States, without the permission of the Legislature accept any present, emolument, office, or title from a foreign prince or state. Nor shall any religious sect, or denomination, or religious test for any office or place, be ever established by law.

Sec. 4. Taxes on lands, houses, and other real estate, and capitation taxes, shall be proportioned in each State by the whole number of free persons, except Indians not taxed, and by three fifths of all other persons.

Sec. 5. The two houses of the Legislature may by joint ballot appoint a Treasurer of the United States. Neither house (in the session of both houses), without the consent of the other shall adjourn for more than three days at a time. The Senators and Representatives in attending, going to and coming from the session of their respective houses, shall be privileged from arrest except for crimes and breaches of the peace. The place of meeting shall always be at the seat of Government which shall be fixed by law.

Sec. 6. The laws of the United States and the treaties which have been made under the articles of the Confederation, and which shall be made under this Constitution, shall be the supreme law of the land, and shall be so construed by the Courts of the several States.

Sec. 7. The Legislature shall convene at least once in each year, which, unless otherwise provided for by law, shall be the first Monday in December.

Sec. 8. The members of the two houses of the Legislature shall receive a reasonable compensation for their services, to be paid out of the treasury of the United States, and ascertained by law. The law for making such provision shall be passed, with the concurrence of the first Assembly, and shall extend to succeeding Assemblies; and no succeeding Assembly shall concur in an alteration of such provision so as to increase its own compensation; but there shall be always a law in existence for making such provision.

ARTICLE VIII.

Sec. 1. The Governor or President of each State shall be appointed under the authority of the United States, and shall have a right to negative all laws about to be passed in the State of which he shall be Governor or President, subject to such qualifications and regulations as the Legislature of the United States shall prescribe. He shall in other respects have the same powers only which the Constitution of the State does or shall allow its Governor or President, except as to the appointment of officers of the militia.

Sec. 2. Each Governor or President of a State shall hold his office until a successor be actually appointed, unless he die or resign or be removed from office by conviction on impeachment. There shall be no appointment of such Governor or President in the recess of the Senate.

The Governors and Presidents of the several States at the time of the ratification of this Constitution, shall continue in office in the same manner and with the same powers as if they had been appointed pursuant to the first section of this article.

The officers of the Militia in the several States may be appointed under the authority of the U. S; the Legislature whereof may authorize the Governors or Presidents of States to make such appointments, with such restrictions as they shall think proper.

ARTICLE IX.

Sec. 1. No person shall be eligible to the office of President of the United States unless he be now a citizen of one of the States, or hereafter be born a citizen of the United States.

Sec. 2. No person shall be eligible as a Senator or Representative unless at the time of his election he be a citizen and inhabitant of the State in which he is chosen; provided that he shall not be deemed to be disqualified by a temporary absence from the State.

Sec. 3. No person entitled by this Constitution to elect

or to be elected President of the United States, or a Senator or Representative in the Legislature thereof, shall be disqualified but by the conviction of some offence for which the law shall have previously ordained the punishment of disqualification. But the Legislature may by law provide that persons holding offices under the United States, or either of them, shall not be eligible to a place in the Assembly or Senate, and shall be, during their continuance in office, suspended from sitting in the Senate.

Sec. 4. No person having an office or place of trust under the United States shall, without permission of the Legislature, accept any present, emolument, office, or title from any foreign prince or state.

Sec. 5. The citizens of each State shall be entitled to the rights, privileges, and immunities of citizens in every other State; and full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of another.

Sec. 6. Fugitives from justice from one State who shall be found in another, shall be delivered up on the application of the State from which they fled.

Sec. 7. No new State shall be erected within the limits of another, or by the junction of two or more, without the concurrent consent of the Legislatures of the United States and of the States concerned. The Legislature of the United States may admit new States into the Union.

Sec. 8. The United States are hereby declared to be bound to guarantee to each State a republican form of government, and to protect each State as well against domestic violence as foreign invasion.

Sec. 9. All treaties, contracts, and engagements of the United States of America, under the articles of Confederation and perpetual Union, shall have equal validity under this Constitution.

Sec. 10. No State shall enter into a treaty, alliance, or contract, with another, or with a foreign power, without the consent of the United States.

Sec. 11. The members of the Legislature of the United States, and of each State, and all officers, executive and judicial, of the one and of the other, shall take an oath or affirmation to support the Constitution of the United States.

Sec. 12. This Constitution may receive such alterations and amendments as may be proposed by the Legislature of the United States, with the concurrence of two-thirds of the members of both houses, and ratified by the legislatures of, or by conventions of deputies chosen by the people in, two-thirds of the States composing the Union.

Article X.

This Constitution shall be submitted to the consideration of Conventions in the several States, the members whereof shall be chosen by the people of such States respectively under the direction of their respective legislatures. Each Convention which shall ratify the same, shall appoint the first Representatives and Senators from such State according to the rule prescribed in the section of the article. The Representatives so appointed shall continue in office for one year only. Each Convention so ratifying shall give notice thereof to the Congress of the United States, transmitting at the same time a list of the Representatives and Senators chosen. When the Constitution shall have been duly ratified, Congress shall give notice of a day and place for the meeting of the Senators and Representatives from the several States; and when these, or a majority of them, shall have assembled, according to such notice, they shall by joint ballot, by plurality of votes, elect a President of the United States; and the Constitution thus organized shall be carried into effect.

BRIEF OF SPEECH ON SUBMITTING HIS PLAN OF CONSTITUTION.

Introduction.

I. Importance of the occasion.
II. A solid *plan*, without regard to temporary *opinions*.
III. If an ineffectual plan be again proposed, it will beget despair, and no government will grow out of CONSENT.
IV. There seem to be but three lines of conduct.

I. A league offensive, treaty of commerce, and apportionment of the public debt.

II. An amendment of the present Confederation, by adding such powers as the public mind seems nearest being matured to grant.

III. The forming a new government to pervade the whole, with decisive powers; in short, with complete sovereignty.

Last seems to be the prevailing sentiment.

I. Its practicability to be examined.

Immense extent unfavorable to representation.

Vast expense.

Double sets of officers.

Difficulty of judging of local circumstances.

Distance has a physical effect on men's minds.

Difficulty of drawing proper characters from home.

Execution of laws, feeble at a distance from government—particularly in the collection of revenue.

Sentiment of obedience—opinion.

I. Objections to the present Confederation.

Intrusts the great interests of the nation to hands incapable of managing them.

All matters in which foreigners are concerned.

The care of the public peace—debts.

Power of treaty, without power of execution.

Common defence, without power to raise troops—have a fleet—raise money.

Power to contract debts, without the power to pay.

These great interests of the State must be well managed, or the public prosperity must be the victim.

Legislates upon communities.

Where the legislatures are to act, they will deliberate.

To ask money, not to collect it, and by an unjust measure.

No sanction!!

Amendment of Confederation according to present ideas.

1. Difficult, because not agreed upon any thing. Ex—*Impost.*

Commerce—different *theories*.

To ascertain the practicability of this, let us examine the principles of civil obedience.

Supports of Government.

I. Interest to support it.
II. Opinion of utility and necessity.
III. Habitual sense of obligation.
IV. Force.
V. Influence.

I. Interest—particular and general interests.
Esprit de corps.
Vox populi, *Vox* Dei.
II. Opinion of utility and necessity.
First will decrease with the growth of the *States*.
Necessity.
This does not apply to Federal Government.
This may dissolve, and yet the order of the community continue.
Anarchy not a necessary consequence.
III. HABITUAL sense of obligation.
This results from administration of private justice.
Demand of service or money odious.
IV. FORCE—of two kinds.
COERCION of laws—COERCION of arms.
First does *not exist*—and the last *useless*.
Attempt to use it, a war between the States.
Foreign aid.
Delinquency not confined to one.
V. INFLUENCE—
1. From municipal jurisdiction.
2. Appointment of officers.
3. Military jurisdiction.
4. Fiscal jurisdiction.
All these now reside in (*the*) particular States.
Their governments are the chief sources of honor and emolument.

AMBITION—AVARICE.

To effect any thing, passions must be turned towards the General Government.

Present Confederation cannot be amended, unless the most important powers be given to Congress, constituted as they are.

This would be liable to all (the) objections against any form of general government, with the addition of the want of *checks*.

Perpetual effort in each member.

Influence of individuals in office to excite jealousy and clamor—State leaders.

Experience corresponds.

Grecian republics.

Demosthenes says—Athens seventy-three years—Lacedæmon twenty-seven—Thebans after battle of Leuctra.

Phocions—consecrated ground—Philip, &c.

Germanic empire.

Charlemagne and his successors.

Diet—recesses.

ELECTORS now seven, excluding others.

Swiss Cantons.

Two diets.

Opposite alliances.

Berne—Lucerne.

To strengthen the Federal Government, powers too great must be given to a single hand.

League offensive and defensive, &c.

Particular governments might exert themselves, &c.

But liable to usual vicissi(*tudes.*)

Internal peace affected.

Proximity of situation—natural enemies.

Partial confederacies from unequal extent.

Power inspires ambition.

Weakness begets jealousy.

Western territory.

Objn.—GENIUS of republics pacific.

Answer. Jealousy of commerce as well as jealousy of power, begets war.

Sparta—Athens—Thebes—Rome—Carthage—Venice—Hanseatic League.

England as many popular as royal wars.

Lewis the XIV.—*Austria*—Bourbons—William and Anne.

Wars depend upon trifling circumstances.

Where—Duchess of Marlborough's glove.

Foreign conquest.

Dismemberment—Poland.

Foreign influence.

Distractions set afloat vicious humors.

Standing armies by dissensions.

Domestic factions—Montesquieu.

Monarchy in Southern States.

☞ Federal rights—*Fisheries.*

Wars—destructive.

Loss of advantages.

Foreign nations would not respect our rights nor grant us reciprocity.

Would reduce us to a passive commerce.

Fisheries—navigation of the lakes—Mississippi—Fleet.

The general government must, in this case, not only have a strong soul, but *strong organs* by which that soul is to operate.

Here I shall give my sentiments of the best form of government—not as a thing attainable by us, but as a model which we ought to approach as near as possible.

British constitution best form.

Aristotle—Cicero—Montesquieu—Neckar.

Society naturally divides itself into two political divisions—the *few* and the *many*, who have distinct interests.

If government in the hands of the *few*, they will tyrannize over the many.

If (*in*) the hands of the many, they will tyrannize over the few. It ought to be in the hands of both; and they should be separated.

This separation must be permanent.

Representation alone will not do.

Demagogues will generally prevail.

And if separated, they will need a mutual check.

This check is a monarch.

Each principle ought to exist in full force, or it will not answer its end.

The democracy must be derived immediately from the people.

The aristocracy ought to be entirely separated; their power should be permanent, and they should have the *caritas liberorum*.

They should be so circumstanced that they can have no interest in a change—as to have an effectual weight in the Constitution.

Their duration should be the earnest of wisdom and stability.

'Tis essential there should be a permanent will in a community.

Vox populi, vox Dei.

Source of government—the unreasonableness of the people—separate interests—debtors and creditors, &c.

There ought to be a principle in government capable of resisting the popular current.

No periodical duration will come up to this.

This will always imply hopes and fears.

Creature and Creator.

Popular assemblies governed by a few individuals.

These individuals seeing their dissolution approach, will sacrifice.

The principle of representation will influence.

The most popular branch will acquire an influence over the other.

The other may check in ordinary cases, in which there is no strong public passion; but it will not in cases where there is—the cases in which such a principle is most necessary.

☞ Suppose duration seven years, and rotation.

One-seventh will have only one year to serve.
One-seventh ——————— two years.
One-seventh ——————— three years.
One-seventh ——————— four years.

A majority will look to a dissolution in four years by instalments.

The monarch must have proportional strength. He ought to be hereditary, and to have so much power, that it will not be his interest to risk much to acquire more.

The advantage of a monarch is this—he is above corruption—he must always intend, in respect to foreign nations, the true interest and glory of the people.

Republics liable to foreign corruption and intrigue—Holland —Athens.

Effect of the British government.

A vigorous execution of the laws—and a vigorous defence of the people, will result.

Better chance for a good administration.

It is said a republican government does not admit a vigorous execution.

It is therefore bad; for the goodness of a government consists in a vigorous execution.

The principle chiefly intended to be established is this—that there must be a permanent *will.*

Gentlemen say we need to be rescued from the democracy. But what the means proposed?

A democratic assembly is to be checked by a democratic senate, and both these by a democratic chief magistrate.

The end will not be answered—the means will not be equal to the object.

It will, therefore, be feeble and inefficient.

Recapitulation.

I. Impossible to secure the union by any modification of federal government.

II. League, offensive and defensive, full of certain evils and greater dangers.

III. General government, very difficult, if not impracticable, liable to various objections.

What is to be done?

Answer. Balance inconveniences and dangers, and choose that which seems to have the fewest objections.

Expense admits of this answer. The expense of the State governments will be proportionably diminished.

Interference of officers not so great, because the objects of the general government and the particular ones will not be the same—Finance—Administration of private justice. Energy will not be wanting in essential points, because the administration of private justice will be carried home to men's doors by the particular governments.

And the revenues may be collected from imposts, excises, &c. If necessary to go further, the general government may make use of the particular governments.

The attendance of members near the seat of government may be had in the lower branch.

And the upper branch may be so constructed as to induce the attendance of members from any part.

But this proves that the government must be so constituted as to offer strong motives.

In short, to interest all the *passions* of individuals.

And turn them into that channel.

Hamilton observed, "This question has already been considered in several points of view. We are now forming a republican government. *Real liberty is neither found in despotism, nor in the extremes of democracy, but in moderate governments.* Those who mean to form a solid republican government, ought to proceed to the confines of another government.* As long as

* It will be remarked that a similar opinion was expressed by Jefferson a few months before. Writing from Paris, February 28, 1787, to La Fayette, then about to take part in the deliberations of France, he observed, "I wish you success in your meeting (the assemblée des notables). I should form better hopes of it, if it were divided into two houses instead of seven; *keeping the good model of your neighboring country before your eyes, you may get on step by step towards a good constitution. Though that model is not perfect, yet, as it would unite more suffrages than any new one which could be proposed, it is better to make that the object. If every advance is to be purchased by filling the royal coffers with gold, it will be gold well employed.*"—2 Jeff. Works, p. 101.

offices are open to all men, and no constitutional rank is established, it is pure republicanism. But if we *incline too much to democracy, we shall soon shoot into a monarchy.* The difference of property is already great among us. Commerce and industry will still increase the disparity. Your government must meet this state of things, or combinations will in process of time undermine your system. What was the tribunitial power of Rome? It was instituted by the plebeians as a guard against the patricians. But was this a sufficient check? No! The only distinction which remained at Rome was, at last, between the rich and the poor. The gentleman from Connecticut forgets that the democratic body is already secure in a representation. As to Connecticut, what were the little objects of their government before the revolution? Colonial concerns merely. They ought now to act on a more extended scale; and dare they do this? Dare they collect the taxes and requisitions of Congress? Such a government may do well if they do not tax, and this is precisely their situation."

Hamilton, in the progress of this discussion, remarked—"The course of my experience in human affairs might, perhaps, restrain me from saying much on this subject. I shall, however, give utterance to some of the observations I have made during the course of this debate. The gentleman from Maryland has been at great pains to establish positions which are not denied. Many of them, as drawn from the best writers on government, are become self-evident principles. But I doubt the propriety of his application of those principles in the present discussion. He deduces from them the necessity that States entering into a confederacy must retain the equality of votes. This position cannot be correct. Facts contradict it. The parliament of Great Britain asserted a supremacy over the whole empire, and the celebrated Judge Blackstone labors for the legality of it, although many parts were not represented. This parliamentary

power we opposed as contrary to our colonial rights. With that exception, throughout that whole empire it is submitted to.

"May not the smaller and greater States so modify their respective rights as to establish the general interest of the whole without adhering to the right of equality? Strict representation is not observed in any of the State governments. The Senate of New-York are chosen by persons of certain qualifications to the exclusion of others.

"The question after all is—Is it our interest, in modifying this general government, to sacrifice individual rights to the preservation of the rights of an *artificial* being, called States? There can be no truer principle than this—*That every individual of the community at large has an equal right to the protection of government.* If, therefore, three States contain a majority of the inhabitants of America, ought they to be governed by a minority? Would the inhabitants of the great States ever submit to this? If the smaller States maintain this principle through a love of power, will not the larger, from the same motives, be equally tenacious to preserve their power? They are to surrender their rights—for what? For the preservation of an artificial being. We propose a free government. Can it be so, if partial distinctions are maintained?

"I agree with the gentleman from Delaware, that if the State governments are to act in the general government, it affords the strongest reason for exclusion. In the State of New-York five counties form a majority of representatives, and yet the government is in no danger, because the laws have a general operation. The small States exaggerate their danger, and on this ground contend for an undue proportion of power. But their danger is increased if the larger States will not submit to it. Where will they form new alliances for their support? Will they do this with foreign powers? Foreigners are jealous of our increasing greatness, and would rejoice in our distractions. Those who have had opportunities of conversing with foreigners respecting sovereigns in Europe, have discovered in them an anxiety for the preservation of our democratic governments, probably for no other reason but to keep us weak. Unless your government is respectable,

foreigners will invade your rights—and to maintain tranquillity, it must be respectable. Even to observe neutrality you must have a strong government.

"I confess our present situation is critical. We have just finished a war which has established our independence, and loaded us with a heavy debt. We have still every motive to unite for our common defence. Our people are disposed to have a good government, but this disposition may not always prevail. It is difficult to amend confederations: it has been attempted in vain, and it is perhaps a miracle that we are now met. We must therefore improve the opportunity, and render the present system as perfect as possible. Their good sense, and, above all, the necessity of their affairs, will induce the people to adopt it."

IMPRESSIONS AS TO THE NEW CONSTITUTION.

1787.

"The new consitution has in favor of its success these circumstances: A very great weight of influence of the persons who framed it, particularly in the universal popularity of General Washington. The good-will of the commercial interest throughout the States, which will give all its efforts to the establishment of a government capable of regulating, protecting, and extending the commerce of the Union. The good-will of most men of property in the several States, who wish a government of the Union able to protect them against domestic violence, and the depredations which the democratic spirit is apt to make on property; and who are besides anxious for the respectability of the nation. The hopes of the creditors of the United States, that a general government possessing the means of doing it, will pay the debt of the Union. A strong belief in the people at large of the insufficiency of the present confederation to preserve the existence of the Union, and of the necessity of the Union to their

safety and prosperity; of course, a strong desire of a change, and a predisposition to receive well the propositions of the convention.

"Against its success is to be put, the dissent of two or three important men in the convention, who will think their characters pledged to defeat the plan; the influence of many *inconsiderable* men in possession of considerable offices under the State governments, who will fear a diminution of their consequence, power, and emolument, by the establishment of the general government, and who can hope for nothing there; the influence of some *considerable* men in office possessed of talents and popularity, who, partly from the same motives, and partly from a desire of *playing a part* in a convulsion for their own aggrandizement, will oppose the quiet adoption of the new government; (some considerable men out of office, from motives of ambition, may be disposed to act the same part.) Add to these causes the disinclination of the people to taxes, and of course to a strong government; the opposition of all men much in debt, who will not wish to see a government established, one object of which is to restrain the means of cheating creditors. The democratical jealousy of the people, which may be alarmed at the appearance of institutions that may seem calculated to place the power of the community in few hands, and to raise a few individuals to stations of great pre-eminence; and the influence of some foreign powers, who, from different motives, will not wish to see an energetic government established throughout the States.

"In this view of the subject, it is difficult to form any judgment whether the plan will be adopted or rejected. It must be essentially matter of conjecture. The present appearances and all other circumstances considered, the probability seems to be on the side of its adoption.

"But the causes operating against its adoption are powerful, and there will be nothing astonishing in the contrary.

"If it do not finally obtain, it is probable the discussion of the question will beget such struggles, animosities, and heats in the community, that this circumstance, conspiring with the *real necessity* of an essential change in our present situation, will pro-

duce civil war. Should this happen, whatever parties prevail, it is probable governments very different from the present in their principles, will be established. A dismemberment of the Union, and monarchies in different portions of it, may be expected. It may, however, happen that no civil war will take place, but several republican confederacies be established between different combinations of the particular States.

"A reunion with Great Britain, from universal disgust at a state of commotion, is not impossible, though not much to be feared. The most plausible shape of such a business would be, the establishment of a son of the present monarch in the supreme government of this country, with a family compact.

"If the government be adopted, it is probable General Washington will be the President of the United States. This will ensure a wise choice of men to administer the government, and a good administration. A good administration will conciliate the confidence and affection of the people, and perhaps enable the government to acquire more consistency than the proposed constitution seems to promise for so great a country. It may then triumph altogether over the State governments, and reduce them to an entire subordination, dividing the larger States into smaller districts. The *organs* of the general government may also acquire additional strength.

"If this should not be the case, in the course of a few years, it is probable that the contests about the boundaries of power between the particular governments and the general government, and the *momentum* of the larger States in such contests will produce a dissolution of the Union. This, after all, seems to be the most likely result.

"But it is almost arrogance, in so complicated a subject, depending so entirely on the incalculable fluctuations of the human passions, to attempt even a conjecture about the event.

"It will be eight or nine months before any certain judgment can be formed respecting the adoption of the plan."

COMMENTS ON THE OPPOSITION TO THE CONSTITUTION.

1787.

Mr. Hamilton, in his absence from New-York, on public duty (with how much propriety and temper his fellow-citizens must decide), has been attacked, by name, as the writer of a publication printed in Mr. Childs' paper of the 21st of July last. In fixing that publication upon him, there is certainly no mistake; nor did he ever mean to be concealed.

He left his name with the printer, to be disclosed to any person who should apply for it on the part of the Governor, with instructions to make that circumstance known; which was accordingly done. The fairness of this conduct speaks for itself. The citizens of the State have too much good sense to be deceived into an opinion that it could have been dictated by a wanton disposition to calumniate a meritorious character. They must and will consider it as an honorable and open attempt to unmask, what appeared to the writer, the pernicious intrigue of a man high in office, to preserve power and emolument to himself, at the expense of the union, the peace, and the happiness of America.

To say that it would have been derogatory to the first magistrate of the State to enter the lists in a newspaper, with an "anonymous scribbler," is a miserable subterfuge. Though Mr. Hamilton, to avoid the appearance of ostentation, did not put his name to that piece, yet, having left it with the printer to be communicated to the party concerned, there is no pretence to consider it in the light of an anonymous publication. If the matter alleged had been false, the Governor had his choice of two modes of vindicating himself from the assertion: one, by giving a simple and direct denial to it in the public prints; the other, by having a personal explanation on the subject with the writer. Neither of these modes could have wounded his dignity. The first is practised in most governments where public opinion is respected. A short paragraph to the following effect would have answered the purpose.

"The printer of this paper is authorized to assure the public, that his Excellency the Governor never made use of the expressions attributed to him in a publication contained in Mr. Childs' paper of the 21st July, nor of any others of similar import." This would have thrown it upon Mr. Hamilton to bring forward to public view the sources of his information, and the proofs of his charge. And this, he has too much regard for his reputation, not to have been prepared to do. This he is still ready to do, whenever such a denial shall appear.

The Governor, if he had any objection to this mode of proceeding, might have had recourse to the other, that of a personal explanation with the writer. Mr. Hamilton would have conceived himself bound, by the principles of candor and honor, to declare on what grounds he had proceeded; and, if he could have been satisfied they were erroneous, to retract the imputations founded upon them. Would it have impaired the dignity of the first magistrate of a republic to have had such an explanation with any *reputable* citizen? Would it have impaired his dignity to have had such an explanation with a citizen, who is at this moment acting in an important and delicate trust by the appointment of the Legislature of the State?

Mr. Hamilton freely submits to the judgment of his fellow-citizens, whether there was any thing in the manner of his animadversions that preclude such an explanation. They were strong and pointed; but he flatters himself they were free from indecorum. He states the charge as matter of report; and makes his observations hypothetically, even seeming to admit a possibility of misrepresentation. As he was not himself present at the conversation, but spoke from the information of those who were, he could not with propriety have expressed himself in more positive terms. As he was speaking of an officer of the first rank in the State, he was disposed to use as much moderation in the manner of exhibiting his misconduct as was consistent with that explicitness and energy which were necessary to place it in its proper light.

These remarks, while they explain Mr. Hamilton's motives, will serve to refute the cavil respecting his doubt of the truth of

the fact alleged by him. He now declares, that from the nature of his information, he had no doubt of the kind; and that, since the publication, he has understood from different partisans of the Governor, that he did not deny the expressions attributed to him to be in substance true, with some minute and unessential distinctions.

It is insinuated, that the circulation of the fact is calculated to produce the evil pretended to be guarded against, by diffusing through the community a knowledge of the Governor's sentiments.

This remark admits of an obvious answer. If his Excellency was predetermined to oppose the measures of the Convention, as his conduct indicates, he would take care himself to propagate his sentiments in the manner in which it could be done with most effect. This appears to have been his practice. It was therefore proper that the antidote should go along with the poison; and that the community should be apprised that he was capable of forming such a predetermination, before, it can be presumed, he had any knowledge of the measures themselves on which to found his judgment.

A cry is attempted to be raised against the publication of Mr. Hamilton, as if it were an invasion of the right of the first magistrate of the State to deliver his sentiments on a matter of public concern. The fallacy of this artifice will easily be detected. The Governor has an undoubted right to give his sentiments freely on every public measure. Under proper circumstances it will be always his duty to do it. But every *right* may be abused by a *wrong* exercise of it. Even the constitutional powers vested in him may be so employed as to subject him justly, not only to censure, but to impeachment. The only question, then, is whether he has, in the present instance, used his right properly or improperly, whether it became him, *by anticipation*, to endeavor to prejudice the community against the "unknown and undetermined measures of a body, to which the general voice of the Union had delegated the important trust of concerting and proposing a plan for reforming the national Constitution?" Let every man answer this question to himself.

The apologists for the Governor, in the intemperate ardor of their zeal for his character, seem to forget another *right* very precious to the citizens of a free country, *that* of examining the conduct of their rulers. *These* have an undoubted right, within the limits of the Constitution, to speak and to act . . . . . their sentiments; but the citizen has an equal right to discuss the propriety of these sentiments, or of the manner of advancing or supporting them. To attempt to abridge this last right, by rendering the exercise of it odious, is to attempt to abridge a privilege, the most essential of any to the security of the people. The laws, which afford sufficient protection to the magistrate, will punish the excess of this privilege; within the bounds they allow, it is the bulwark of public liberty.

But observations of either kind might mutually have been spared. There is no danger that the rights of a man, at the head of the Government (possessing all the influence to be derived from long continuance in office, the disposition of lucrative places and *consummate talents* for popularity), can be injured by the voice of a private individual. There is as little danger that the spirit of the people of this country will ever tolerate attempts to seduce, to awe, or to clamor them out of the privilege of bringing the conduct of men in power to the bar of public condemnation.

To all the acclamation and abuse with which the Republican winds up his performance and labors to mislead the public attention from its *true object*, but one answer will be given. It is the trick of the party to traduce every *independent man* opposed to their views, the better to preserve to themselves that power and consequence to which they have no other title than their arts of deceiving the people.

Mr. Hamilton can, however, defy all their malevolent ingenuity to produce a single instance of his conduct, public or private, inconsistent with the strictest rules of integrity and honor—a single instance that may even denominate him selfish or interested—a single instance in which he has either "*forfeited*" the confidence of the people or failed of obtaining any proof of their favor for which he has been a candidate. It would be ingratitude

in him not to acknowledge that the marks of their confidence have greatly exceeded his deserts.

RESOLUTION IN CONGRESS.

June 3, 1788.

Resolved, That in their opinion it is expedient that the District of Kentucke be erected into an independent State, and they therefore submit the following resolution—That the address and resolutions from the District of Kentucke, with the acts of the Legislature of Virginia therein specified, be referred to a committee of (a member from each State), to prepare and report a proper act for acceding to the independence of the said District of Kentucke, and for receiving the same into the Union as a member thereof, in a mode conformable to the articles of confederation.

CONVENTION OF NEW-YORK.

SPEECH ON THE COMPROMISES OF THE CONSTITUTION.

POUGHKEEPSIE, 1788.

MR CHAIRMAN:*

The honorable member who spoke yesterday, went into an explanation of a variety of circumstances to prove the expediency of a change in our National Government, and the necessity of a firm Union: at the same time he described the great advantages which this State, in particular, receives from the Confed-

* The reporter of this, and of the preceding and following speeches, observes —"He thinks an apology due for the imperfect dress in which these arguments are given to the public. Not long accustomed, he cannot pretend as much accuracy as might be expected from a more experienced hand."

eracy, and its peculiar weaknesses when abstracted from the Union. In doing this, he advanced a variety of arguments which deserve serious consideration. Gentlemen have this day come forward to answer him. He has been treated as having wandered in the flowery fields of fancy, and attempts have been made to take off from the minds of the Committee that sober impression which might be expected from his arguments. I trust, sir, that observations of this kind are not thrown out to cast a light air on this important subject; or to give any personal bias on the great question before us. I will not agree with gentlemen who trifle with the weaknesses of our country; and suppose that they are enumerated to answer a party purpose, and to terrify with ideal dangers. No; I believe these weaknesses to be real, and pregnant with destruction. Yet, however weak our country may be, I hope we shall never sacrifice our liberties. If, therefore, on a full and candid discussion, the proposed System shall appear to have that tendency, for God's sake, let us reject it! But, let us not mistake words for things, nor accept doubtful surmises as the evidence of truth. Let us consider the Constitution calmly and dispassionately, and attend to those things only which merit consideration.

No arguments drawn from embarrassment or inconvenience ought to prevail upon us to adopt a system of government radically bad; yet it is proper that these arguments, among others, should be brought into view. In doing this, yesterday, it was necessary to reflect upon our situation; to dwell upon the imbecility of our Union; and to consider whether we, as a State, could stand alone.

Although I am persuaded this convention will be resolved to adopt nothing that is bad; yet I think every prudent man will consider the merits of the plan in connection with the circumstances of our country; and that a rejection of the Constitution may involve most fatal consequences. I make these remarks to show, that though we ought not to be actuated by unreasonable fear, yet we ought to be prudent.

This day, sir, one gentleman has attempted to answer the arguments advanced by my honorable friend; another has

treated him as having wandered from the subject. This being the case, I trust I shall be equally indulged in reviewing the remarks which have been made.

Sir, it appears to me extraordinary, that while gentlemen in one breath acknowledge, that the old Confederation requires many material amendments, they should, in the next, deny that its defects have been the cause of our political weakness, and the consequent calamities of our country. I cannot but infer from this that there is still some lurking favorite imagination that this system, with corrections, might become a safe and permanent one. It is proper that we should examine this matter. We contend, that the radical vice in the old Confederation is that the laws of the Union apply only to the States in their corporate capacity. Has not every man who has been in our Legislature experienced the truth of this position? It is inseparable from the disposition of bodies, who have a constitutional power of resistance, to examine the merits of a law.—This has ever been the case with the federal requisitions.—In this examination, not being furnished with those lights which directed the deliberations of the General Government; and incapable of embracing the general interests of the Union, the States have almost uniformly weighed the requisitions by their own local interests; and have only executed them so far as answered their particular convenience or advantage. Hence there have ever been thirteen different bodies to judge of the measures of Congress—and the operations of government have been distracted by their taking different courses. Those which were to be benefited, have complied with the requisitions; others have totally disregarded them. Have not all of us been witnesses to the unhappy embarrassments which resulted from these proceedings? Even during the late war, while the pressure of common danger connected strongly the bond of our union, and excited to vigorous exertions, we have felt many distressing effects of the impotent system. How have we seen this State, though most exposed to the calamities of the war, complying, in an unexampled manner, with the federal requisitions, and compelled by the delinquency of others to bear most unusual burdens! Of this truth we have the most solemn evidence on

our records. In 1779 and 1780, when the State, from the ravages of war, and from her great exertions to resist them, became weak, distressed, and forlorn, every man avowed the principle we now contend for; that our misfortunes, in a great degree, proceeded from the want of vigor in the Continental Government. These were our sentiments when we did not speculate, but feel. We saw our weakness, and found ourselves its victims. Let us reflect that this may again, in all probability, be our situation. This is a weak State, and its relative station is dangerous. Your capital is accessible by land, and by sea is exposed to every daring invader; and on the northwest you are open to the inroads of a powerful foreign nation. Indeed this State, from its situation, will, in time of war, probably be the theatre of its operations.

Gentlemen have said that the non-compliance of the States has been occasioned by their sufferings. This may in part be true. But has this State been delinquent? Amidst all our distresses, *we* have fully complied. If New-York could comply wholly with the requisitions, is it not to be supposed that the other States could in part comply? Certainly every State in the Union might have executed them in some degree. But New Hampshire, who has not suffered at all, is totally delinquent. North Carolina is totally delinquent. Many others have contributed in a very small proportion; and Pennsylvania and New-York are the only States which have perfectly discharged their Federal duty.

From the delinquency of those States which have suffered little by the war, we naturally conclude, that they have made no efforts; and a knowledge of human nature will teach us, that their ease and security have been a principal cause of their want of exertion. While danger is distant its impression is weak, and while it affects only our neighbors, we have few motives to provide against it. Sir, if we have national objects to pursue, we must have national revenues. If you make requisitions and they are not complied with; what is to be done? It has been well observed, that to coerce the States is one of the maddest projects that was ever devised. A failure of compliance will

never be confined to a single State: this being the case, can we suppose it wise to hazard a civil war? Suppose Massachusetts or any large State should refuse, and Congress should attempt to compel them; would they not have influence to procure assistance, especially from those States who are in the same situation as themselves? What a picture does this idea present to our view! A complying State at war with a non-complying State: Congress marching the troops of one State into the bosom of another: this State collecting auxiliaries and forming perhaps a majority against its Federal head. Here is a nation at war with itself! A government that can exist only by the sword! Every such war must involve the innocent with the guilty.—This single consideration should be sufficient to dispose every peaceable citizen against such a government.

But can we believe that one State will ever suffer itself to be used as an instrument of coercion? It is a dream. It is impossible. We are brought to this dilemma: either a Federal standing army is to enforce the requisitions, or the Federal Treasury is left without supplies, and the government without support.—What is the cure for this great evil? Nothing, but to enable the national laws to operate on individuals, in the same manner as those of the States do.—This is the true reasoning upon the subject. Gentlemen appear to acknowledge its force; and yet, while they yield to the principle, they seem to fear its application to this government.

What shall we do? Shall we take the Old Confederation, as the basis of a new system? Can this be the object of gentlemen?—Certainly not.—Will any man who entertains a wish for the safety of his country, trust the sword and the purse with a single Assembly, organized on principles so defective? Though we might give to such a government certain powers with safety, yet, to give them the full and unlimited powers of taxation and the national forces, would be to establish a despotism; the definition of which is, a government, in which all power is concentrated in a single body. To take the Old Confederation, and fashion it upon these principles, would be establishing a power which would destroy the liberties of the people.—These

considerations show clearly that a government totally different must be instituted. They had weight in the Convention who formed the new system. It was seen, that the necessary powers were too great to be trusted to a single body: they therefore formed two branches, and divided the powers, that each might be a check upon the other. This was the result of their wisdom; and I presume that every reasonable man will agree to it. The more this subject is explained, the more clear and convincing it will appear to every member of this body. The fundamental principle of the Old Confederation is defective.—We must totally eradicate and discard this principle before we can expect an efficient government. The gentlemen who have spoken to-day have taken up the subject of the ancient Confederacies: but their view of them has been extremely partial and erroneous; the fact is, the same false and impracticable principle ran through most of the ancient governments. The first of these governments that we read of was the Amphyctionic confederacy. The Council which managed the affairs of this league possessed powers of a similar complexion with those of our present Congress. The same feeble mode of legislation in the head, and the same power of resistance in the members, prevailed. When a requisition was made, it rarely met a compliance; and a civil war was the consequence. Those which were attacked called in foreign aid to protect them; and the ambitious Philip, under the mask of an ally to one, invaded the liberties of each, and finally subverted the whole.

The operation of this principle appears in the same light in the Dutch Republics. They have been obliged to levy taxes by an armed force. In this confederacy, one large province, by its superior wealth and influence, is commonly a match for all the rest; and when they do not comply, the province of Holland is obliged to compel them. It is observed that the United Provinces have existed a long time; but they have been constantly the sport of their neighbors, and have been supported only by the external pressure of surrounding powers. The policy of Europe not the policy of their government, has saved them from dissolution. Besides, the powers of the Stadtholder have served to

give an energy to the operations of his government, which is not to be found in ours. This prince has a vast personal influence: he has independent revenues: he commands an army of forty thousand men.

The German confederacy has also been a perpetual source of wars:— They have a Diet, like our Congress, who have authority to call for supplies: these calls are never obeyed; and, in time of war, the imperial army never takes the field till the enemy are returning from it. The emperor's Austrian dominions, in which he is an absolute prince, alone enable him to make head against the common foe. The members of this confederacy are ever divided and opposed to each other. The king of Prussia is a member; yet he has been constantly in opposition to the emperor. Is this a desirable government?

I might go more particularly into the discussion of examples, and show that, wherever this fatal principle has prevailed, even as far back as the Lycian and Achæan leagues, as well as the Amphyctionic confederacy, it has proved the destruction of the government. But I think observations of this kind might have been spared. Had they not been entered into by others, I should not have taken up so much of the time of the Committee. No inference can be drawn from these examples, that republics cannot exist: we only contend that they have hitherto been founded on false principles. We have shown how they have been conducted, and how they have been destroyed. Weakness in the head has produced resistance in the members: this has been the immediate parent of civil war: auxiliary force has been invited, and a foreign power has annihilated their liberties and their name. Thus, Philip subverted the Amphyctionic, and Rome the Achæan Republic.

We shall do well, Sir, not to deceive ourselves with the favorable events of the late war. Common danger prevented the operation of the ruinous principle in its full extent. But since the peace, we have experienced the evils. We have felt the poison of the system in its unmingled purity.

Without dwelling any longer on this subject, I shall proceed to the question immediately before the committee.

In order that the committee may understand clearly the principles on which the general convention acted, I think it necessary to explain some preliminary circumstances.

Sir, the natural situation of this country seems to divide its interests into different classes. There are navigating and non-navigating States. The Northern are properly the navigating States; the Southern appear to possess neither the means nor the spirit of navigation. This difference in situation naturally produces a dissimilarity of interests and views respecting foreign commerce. It was the interest of the Northern States, that there should be no restraints on their navigation, and that they should have full power, by a majority in Congress, to make commercial regulations in favor of their own, and in restraint of the navigation of foreigners. The Southern States wished to impose a restraint on the Northern, by requiring that two-thirds in Congress should be requisite to pass an act in regulation of commerce. They were apprehensive that the restraints of a navigation law would discourage foreigners; and, by obliging them to employ the shipping of the Northern States, would probably enhance their freight. This being the case, they insisted strenuously on having this provision ingrafted in the Constitution; and the Northern States were as anxious in opposing it. On the other hand, the small States, seeing themselves embraced by the Confederation upon equal terms, wished to retain the advantages which they already possessed. The large States, on the contrary, thought it improper that Rhode Island and Delaware should enjoy an equal suffrage with themselves. From these sources a delicate and difficult contest arose. It became necessary therefore to compromise, or the convention must have dissolved without effecting any thing. Would it have been wise and prudent in that body, in this critical situation, to have deserted their country? No. Every man who hears me—every wise man in the United States would have condemned them. The convention were obliged to appoint a committee for accommodation. In this committee the arrangement was formed as it now stands, and their report was accepted. It was a delicate point, and it was necessary that all parties should be indulged. Gen-

tlemen will see, that if there had not been unanimity, nothing could have been done. For the convention had no power to establish, but only to recommend a government. Any other system would have been impracticable. Let a convention be called to-morrow. Let them meet twenty times—nay, twenty thousand times—they will have the same difficulties to encounter—the same clashing interests to reconcile.

But, dismissing these reflections, let us consider how far the arrangement is in itself entitled to the approbation of this body. We will examine it upon its own merits.

The first thing objected to, is that clause which allows a representation for three-fifths of the negroes. Much has been said of the impropriety of representing men who have no will of their own. Whether this be reasoning or declamation, I will not presume to say. It is the unfortunate situation of the Southern States to have a great part of their population as well as property in blacks. The regulation complained of was one result of the spirit of accommodation which governed the convention; and without this indulgence no UNION could possibly have been formed. But, sir, considering some peculiar advantages which we derive from them, it is entirely just that they should be gratified. The Southern States possess certain staples—tobacco, rice, indigo, &c.—which must be capital objects in treaties of commerce with foreign nations; and the advantage which they necessarily procure in these treaties will be felt throughout all the States. But the justice of this plan will appear in another view. The best writers on government have held that representation should be compounded of persons and property. This rule has been adopted, as far as it could be, in the Constitution of New-York. It will, however, be by no means admitted that the slaves are considered altogether as property. They are men, though degraded to the condition of slavery. They are persons known to the municipal laws of the States which they inhabit, as well as to the laws of nature. But representation and taxation go together, and one uniform rule ought to apply to both. Would it be just to compute these slaves in the assessment of taxes, and discard them from the estimate in the apportionment

of representatives? Would it be just to impose a singular burthen without conferring some adequate advantage?

Another circumstance ought to be considered. The rule we have been speaking of, is a general rule, and applies to all the States. You have a great number of people in your State, which are not represented at all, and have no voice in your government. These will be included in the enumeration, not two-fifths, or three-fifths, but the whole. This proves that the advantages of the plan are not confined to the Southern States, but extend to other parts of the Union.

I now proceed to consider the objection with regard to the number of representatives as it now stands. I am persuaded that the system, in this respect, is on a better footing than the gentlemen imagine.

It has been asserted that it will be in the power of Congress to reduce the number. I acknowledge that there are no direct words of prohibition. But I contend that the true and genuine construction of the clause gives Congress no power whatever to reduce the representation below the number as it now stands. Although they may limit, they can never diminish the number. One representative for every thirty thousand inhabitants is fixed as the standard of increase, till by the natural course of population, it shall become necessary to limit the ratio. Probably, at present, were this standard to be immediately applied, the representation would considerably exceed sixty-five. In three years, it would exceed a hundred. If I understand the gentlemen, they contend that the number may be enlarged, or may not. I admit that this is in the discretion of Congress; and I submit to the committee whether it be not necessary and proper. Still, I insist that an immediate limitation is not probable; nor was it in the contemplation of the convention. But, sir, who will presume to say to what precise point the representation ought to be increased? This is a matter of opinion; and opinions are vastly different upon the subject. In Massachusetts, the Assembly consists of about three hundred; in South Carolina, of nearly one hundred; in New-York, there are sixty-five. It is observed generally that the number ought to be large. I confess it is difficult for me

to say what number may be said to be sufficiently large. On one hand, it ought to be considered that a small number will act with more facility, system, and decision. On the other, that a large one may enhance the difficulty of corruption. The Congress is to consist at first of ninety-one members. This, to a reasonable man, may appear to be as near the proper medium as any number whatever; at least, for the present. There is one source of increase, also, which does not depend upon any constructions of the Constitution: it is the creation of new States. Vermont, Kentucky, and Franklin, will probably soon become independent. New members of the Union will also be formed from the unsettled tracts of Western territory. These must be represented, and will all contribute to swell the federal legislature. If the whole number in the United States be at present three millions, as is commonly supposed, according to the ratio of one for thirty thousand, we shall have, on the first census, a hundred representatives. In ten years, thirty more will be added; and, in twenty-five years, the number will double. Then, sir, we shall have two hundred, if the increase goes on in the same proportion. The convention of Massachusetts, who made the same objection, have fixed upon this number as the point at which they chose to limit the representation. But can we pronounce with certainty that it will not be expedient to go beyond this number? We cannot. Experience alone may determine. This problem may with more safety be left to the discretion of the legislature, as it will be the interest of the larger and increasing States of Massachusetts, New-York, Pennsylvania, &c., to augment the representation. Only Connecticut, Rhode Island, Delaware, and Maryland, can be interested in limiting it. We may, therefore, safely calculate upon a growing representation, according to the advance of population, and the circumstances of the country.

The State governments possess inherent advantages, which will ever give them an influence and ascendency over the National government, and will for ever preclude the possibility of federal encroachments. That their liberties, indeed, can be subverted by the federal head, is repugnant to every rule of political

calculation. Is not this arrangement then, sir, a most wise and prudent one? Is not the present representation fully adequate to our present exigencies, and sufficient to answer all the purposes of the Union? I am persuaded that an examination of the objects of the federal government will afford a conclusive answer.

Many other observations might be made on this subject, but I cannot now pursue them, for I feel myself not a little exhausted; I beg leave, therefore, to waive for the present the further discussion of this question.

SPEECH ON THE CONSTITUTION RESUMED.

Mr. Hamilton resumed his argument. When, said he, I had the honor to address the committee yesterday, I gave a history of the circumstances which attended the convention, when forming the plan before you. I endeavored to point out to you the principles of accommodation on which this arrangement was made, and to show that the contending interests of the States led them to establish the representation as it now stands. In the second place, I attempted to prove that, in point of number, the representation would be perfectly secure.

Sir, no man agrees more fully than myself to the main principle for which the gentlemen contend. I agree that there should be a broad democratic branch in the national legislature. But this matter depends on circumstances. It is impossible, in the first instance, to be precise and exact with regard to the number; and it is equally impossible to determine to what point it may be brought in future to increase it. On this ground, I am disposed to acquiesce. In my reasonings on the subject of government, I rely more on the interests and the opinions of men, than upon any speculative parchment provisions whatever. I have found, that constitutions are more or less excellent, as they are more or less agreeable to the natural operation of things; I am therefore disposed not to dwell long on curious speculations, or pay much attention to modes and forms, but to adopt a system whose principles have been sanctioned by experience—adapt it to the

real state of our country, and depend on probable reasonings for its operation and result. I contend, that sixty-five and twenty-six, in two bodies, afford perfect security in the present state of things; and that the regular progressive enlargement, which was in the contemplation of the general convention, will leave not an apprehension of danger in the most timid and suspicious mind. It will be the interest of the large States to increase the representation. This will be the standing instruction to their delegates. But the members of Congress will be interested not to increase the number, as it will diminish their relative influence. In all the reasoning upon this subject, there seems to be this fallacy:—They suppose that the representative will have no motive of action, on the one side, but a sense of duty, or, on the other, but corruption. They do not reflect that he is to return to the community—that he is dependent on the will of the people—and that it cannot be his interest to oppose their wishes. Sir, the general sense of the people will regulate the conduct of their representatives. I admit that there are exceptions to this rule. There are certain conjunctures when it may be necessary and proper to disregard the opinions which the majority of the people have formed; but, in the general course of things, the popular views, and even prejudices, will direct the actions of the rulers.

All governments, even the most despotic, depend, in a great degree, on opinion. In free republics, it is most peculiarly the case. In these, the will of the people makes the essential principle of the government, and the laws which control the community, receive their tone and spirit from the public wishes. It is the fortunate situation of our country, that the minds of the people are exceedingly enlightened and refined. Here, then, we may expect the laws to be proportionably agreeable to the standard of a perfect policy, and the wisdom of public measures to consist with the most intimate conformity between the views of the representative and his constituent. If the general voice of the people be for an increase, it undoubtedly must take place. They have it in their power to instruct their representatives, and the State Legislatures, which appoint the Senators, may enjoin

it also upon them. If I believed that the number would remain at sixty-five, I confess I should give my vote for an amendment, though in a different form from the one proposed.

The amendment proposes a ratio of one for twenty thousand. I would ask, by what rule or reasoning it is determined, that one man is a better representative for twenty than for thirty thousand? At present, we have three millions of people; in twenty-five years we shall have six millions; and in forty years nine millions; and this is a short period as it relates to the existence of States. Here, then, according to the ratio of one for thirty thousand, we shall have, in forty years, three hundred representatives. If this be true, and if this be a safe representation, why be dissatisfied? Why embarrass the Constitution with amendments that are merely speculative and useless? I agree with the gentleman, that a very small number might give some color for suspicion. I acknowledge that ten would be unsafe; on the other hand, a thousand would be too numerous. But, I ask him, why will not ninety-one be an adequate and safe representation? This, at present, appears to be the proper medium. Besides, the President of the United States will be himself the representative of the people. From the competition that ever subsists between the branches of the government, the President will be induced to protect their rights, whenever they are invaded by either branch. On whatever side we view this subject, we discover various and powerful checks to the encroachments of Congress. The true and permanent interests of the members are opposed to corruption. Their number is vastly too large for easy combination. The rivalship between the houses will forever prove an insuperable obstacle. The people have an obvious and powerful protection in their own State governments. Should any thing dangerous be attempted, these bodies of perpetual observation will be capable of forming and conducting plans of regular opposition. Can we suppose the people's love of liberty will not, under the incitement of their legislative leaders, be roused into resistance, and the madness of tyranny be extinguished at a blow? Sir, the danger is too distant; it is beyond all rational calculations.

It has been observed, that a pure democracy, if it were practicable, would be the most perfect government. Experience has proved, that no position in politics is more false than this. The ancient democracies, in which the people themselves deliberated, never possessed one feature of good government.—Their very character was tyranny; their figure deformity. When they assembled, the field of debate presented an ungovernable mob, not only incapable of deliberation, but prepared for every enormity. In these assemblies the enemies of the people brought forward their plans of ambition systematically. They were opposed by their enemies of another party; and it became a matter of contingency, whether the people subjected themselves to be led blindly by one tyrant, or by another.

It was remarked yesterday that a numerous representation was necessary to obtain the confidence of the people. This is not generally true. The confidence of the people will easily be gained by a good administration. This is the true touchstone. I could illustrate the position by a variety of historical examples both ancient and modern. In Sparta, the Ephori were a body of magistrates, instituted as a check upon the Senate and representing the people. They consisted of only five men: but they were able to protect their rights, and therefore enjoyed their confidence and attachment. In Rome the people were represented by three Tribunes, who were afterwards increased to ten. Every one acquainted with the history of that Republic will recollect how powerful a check to the senatorial encroachments this small body proved; how unlimited a confidence was placed in them by the people whose guardians they were; and to what a conspicuous station in the government, their influence at length elevated the plebeians. Massachusetts has three hundred representatives; New York has sixty-five. Have the people in this State less confidence in their representation than the people of that? Delaware has twenty-one: do the inhabitants of New York feel a higher confidence than those of Delaware? I have stated these examples to prove that the position is not just. The popular confidence depends on circumstances very distinct from considerations of number. Probably the public attach-

ment is more strongly secured by a train of prosperous events, which are the result of wise deliberation and of vigorous execution, and to which large bodies are much less competent than small ones. If the representative conducts with propriety, he will necessarily enjoy the good will of the constituent. It appears then, if my reasoning be just, that the clause is perfectly proper, upon the principles of the gentleman who contends for the amendment; as there is in it the greatest degree of present security, and a moral certainty of an increase equal to our utmost wishes.

It has been observed that a large representation is necessary to understand the true interests of the people. This opinion is by no means true in the extent to which it is carried. I would ask, why may not a man understand the interests of thirty as well as of twenty? The position appears to be based upon the unfounded presumption, that all the interests of all parts of the community must be represented. No idea is more erroneous than this. Only such interests are proper to be represented as are involved in the powers of the General Government. These interests come completely under the observation of one, or a few men; and the requisite information is by no means augmented in proportion to the increase of number. What are the objects of the Government? Commerce, taxation, &c. In order to comprehend the interests of commerce, is it necessary to know how wheat is raised,—and in what proportion it is produced in one district and in another? By no means. Neither is this species of knowledge necessary in general calculations upon the subject of taxation. The information necessary for these purposes is that which is open to every intelligent inquirer; and of which five men may be as perfectly possessed as fifty. In regal governments, there are usually particular men to whom the business of taxation is committed. These men have the forming of systems of finance, and the regulation of the revenue. I do not mean to commend this practice. It proves, however, this point: that a few individuals may be competent to these objects; and that large numbers are not necessary to perfection in the science of taxation. But, granting for a moment, that this

minute and local knowledge, the gentlemen contend for, is necessary, let us see, if, under the new Constitution, it will not probably be found in the representation. The natural and proper mode of holding elections will be to divide the State into districts, in proportion to the number to be elected. This State will consequently be divided at first into six. One man from each district will probably possess all the knowledge the gentlemen can desire. Are the Senators of this State more ignorant of the interests of the people, than the Assembly? Have they not ever enjoyed their confidence as much? Yet, instead of six districts, they are elected in four; and the chance of their being elected from the smaller divisions of the State consequently diminished. Their number is but twenty-four; and their powers are coextensive with those of the Assembly, and reach objects, which are most dear to the people—life, liberty, and property.

We hear constantly a great deal which is more calculated to awake our passions, and create prejudices, than to conduct us to truth, and teach us our real interests. I do not suppose this to be the design of gentlemen. Why then are we told so often of an aristocracy? For my part, I hardly know the meaning of this word as it is applied. If all we hear be true, this government is really a very bad one. But who are the aristocracy among us? Where do we find men elevated to a perpetual rank among our fellow-citizens; and possessing powers entirely independent of them? The arguments of the gentlemen only go to prove that there are men who are rich, men who are poor; some who are wise, and others who are not; that, indeed, every distinguished man is an aristocrat. Does the new government render a rich man more eligible than a poor one? No! It requires no such qualification. It is bottomed on the broad and equal principle of your State Constitution.

Sir, if the people have it in their option, to elect their most meritorious men; is this to be considered an objection? Shall the Constitution oppose their wishes, and abridge their most invaluable privilege? While property continues to be pretty equally divided, and a considerable share of information pervades the community; the tendency of the people's suffrages,

will be to elevate merit even from obscurity. As riches increase and accumulate in few hands; as luxury prevails in society; virtue will be in a greater degree considered as only a graceful appendage of wealth, and the tendency of things will be to depart from the republican standard. This is the real disposition of human nature; it is what neither the honorable member nor myself can correct. It is a common misfortune that awaits our State Constitution, as well as all others.

There is an advantage incident to large districts of election, which perhaps the gentlemen, amidst all their apprehensions of influence and bribery, have not adverted to. In large districts, the corruption of the electors is much more difficult. Combinations, for the purposes of intrigue, are less easily formed. Factions and cabals are little known. In a small district, wealth will have a more complete influence; because the people in the vicinity of a great man are more immediately his dependents, and because this influence has fewer objects to act upon. It has been remarked, that it would be disagreeable to the middle class of men to go to the seat of the new government. If this be so, the difficulty will be enhanced by the gentleman's proposal. If his argument be true, it proves, that the larger the representation is, the less will be your chance of having it filled. But, it appears to me frivolous to bring forward such arguments as these. It has answered no other purpose, than to induce me, by way of reply, to enter into discussions, which I consider as useless, and not applicable to our subject.

It is a harsh doctrine, that men grow wicked in proportion as they improve and enlighten their minds. Experience has by no means justified us in the supposition, that there is more virtue in one class of men than in another. Look through the rich and the poor of the community; the learned and the ignorant. Where does virtue predominate? The difference indeed consists, not in the quantity, but kind of vices, which are incident to the various classes; and here the advantage of character belongs to the wealthy. Their vices are probably more favorable to the prosperity of the State, than those of the indigent; and partake less of moral depravity.

After all, we must submit to this idea, that the true principle of a republic is, that the people should choose whom they please to govern them. Representation is imperfect, in proportion as the current of popular favor is checked. This great source of free government, popular election, should be perfectly pure, and the most unbounded liberty allowed. Where this principle is adhered to; where, in the organization of the government, the legislative, executive, and judicial branches are rendered distinct; where again the legislative is divided into separate houses, and the operations of each are controlled by various checks and balances, and above all, by the vigilance and weight of the State governments; to talk of tyranny, and the subversion of our liberties, is to speak the language of enthusiasm. This balance between the National and State governments ought to be dwelt on with peculiar attention, as it is of the utmost importance. It forms a double security to the people. If one encroaches on their rights, they will find a powerful protection in the other. Indeed, they will both be prevented from over-passing their constitutional limits, by a certain rivalship, which will ever subsist between them. I am persuaded, that a firm union is as necessary to perpetuate our liberties, as it is to make us respectable; and experience will probably prove, that the National government will be as natural a guardian of our freedom, as the State legislatures themselves.

Suggestions of an extraordinary nature, have been frequently thrown out in the course of the present political controversy. It gives me pain to dwell on topics of this kind; and I wish they might be dismissed. We have been told, that the old Confederation has proved inefficacious, only because intriguing and powerful men, aiming at a revolution, have been for ever instigating the people, and rendering them disaffected to it. This, sir, is a false insinuation.

I will venture to assert, that no combination of designing men under heaven, will be capable of making a government unpopular, which is in its principles a wise and good one; and vigorous in its operations.

The Confederation was framed amidst the agitation and

tumult of society. It was composed of unsound materials, put together in haste. Men of intelligence discovered the feebleness of the structure, in the first stages of its existence, but the great body of the people, too much engrossed with their distresses, to contemplate any but the immediate causes of them, were ignorant of the defects of their Constitution. But, when the dangers of war were removed, they saw clearly what they had suffered, and what they had yet to suffer from a feeble form of government. There was no need of discerning men to convince the people of their unhappy situation. The complaint was coextensive with the evil, and both were common to all classes of the community. We have been told, that the spirit of patriotism and love of liberty are almost extinguished among the people, and that it has become a prevailing doctrine, that republican principles ought to be hooted out of the world. Sir, I am confident that such remarks as these are rather occasioned by the heat of argument, than by a cool conviction of their truth and justice. As far as my experience has extended, I have heard no such doctrine, nor have I discovered any diminution of regard for those rights and liberties, in defence of which, the people have fought and suffered. There have been, undoubtedly, some men who have had speculative doubts on the subject of government, but the principles of republicanism are founded on too firm a basis to be shaken by a few speculative and skeptical reasoners. Our error has been of a very different kind. We have erred through excess of caution, and a zeal false and impracticable. Our councils have been destitute of consistency and stability. I am flattered with a hope, sir, that we have now found a cure for the evils under which we have so long labored. I trust that the proposed Constitution affords a genuine specimen of Representative and Republican government; and that it will answer, in an eminent degree, all the beneficial purposes of society.

SPEECH ON THE SENATE OF THE UNITED STATES.

1788.

I am persuaded that I, in my turn, shall be indulged in addressing the committee. We all, with equal sincerity, profess to be anxious for the establishment of a Republican Government, on a safe and solid basis. It is the object of the wishes of every honest man in the United States; and I presume I shall not be disbelieved when I declare, that it is an object, of all others, the nearest and most dear to my own heart. The means of accomplishing this great purpose, become the most important study which can interest mankind. It is our duty to examine all those means with peculiar attention, and to choose the best and most effectual. It is our duty to draw from nature, from reason, from examples, the justest principles of policy, and to pursue and apply them in the formation of our government. We should contemplate and compare the systems which, in the examination, come under our view; distinguish with a careful eye the defects and excellencies of each, and discarding the former, incorporate the latter, as far as circumstances will admit, into our Constitution. If we pursue a different course, and neglect this duty, we shall probably disappoint the expectations of our country and of the world.

In the commencement of a revolution, which received its birth from the usurpations of tyranny, nothing was more natural than that the public mind should be influenced by an extreme spirit of jealousy. To resist these encroachments, and to nourish this spirit, was the great object of all our public and private institutions. The zeal for liberty became predominant and excessive. In forming our Confederation, this passion alone seemed to actuate us, and we appear to have had no other view than to secure ourselves from despotism. The object certainly was a valuable one, and deserved our utmost attention. But there is another object, equally important, and which our enthusiasm rendered us little capable of regarding. I mean a principle of strength and stability in the organization of our government, and

vigor in its operations. This purpose could never be accomplished but by the establishment of some select body, formed peculiarly on this principle. There are few positions more demonstrable than that there should be in every republic some permanent body, to correct the prejudices, check the intemperate passions, and regulate the fluctuations of a popular assembly. It is evident that a body instituted for these purposes, must be so formed as to exclude as much as possible from its own character, those infirmities, and that mutability which it is designed to remedy. It is, therefore, necessary that it should be small, that it should hold its authority during a considerable period, and that it should have such an independence in the exercise of its powers, as will divest it, as much as possible, of local prejudices. It should be so formed as to be the centre of political knowledge; to pursue always a steady line of conduct, and to reduce every irregular propensity to system. Without this establishment we may make experiments without end, but shall never have an efficient government.

It is an unquestionable truth, that the body of the people in every country, desire sincerely its prosperity. But it is equally unquestionable, that they do not possess the discernment and stability necessary for systematic government. To deny that they are frequently led into the grossest errors, by misinformation and passion, would be a flattery which their own good sense must despise. That branch of administration, especially, which involves our political relation with foreign states, a community will ever be incompetent to. These truths are not often held up in public assemblies; but they cannot be unknown to any who hear me. From these principles, it follows that there ought to be two distinct bodies in our Government: one which shall be immediately constituted by, and peculiarly represent the people, and possess all the popular features; another formed upon the principles, and for the purposes before explained. Such considerations as these induced the Convention who formed your State Constitution, to institute a Senate upon the present plan. The history of ancient and modern republics had taught them that many of the evils which those republics suffered, arose from the

want of a certain balance, and that mutual control indispensable to a wise administration. They were convinced that popular assemblies are frequently misguided by ignorance, by sudden impulses, and the intrigues of ambitious men; and that some firm barrier against these operations was necessary. They, therefore, instituted your Senate; and the benefits we have experienced have fully justified their conceptions.

What is the tendency of the proposed amendment? To take away the stability of government, by depriving the Senate of its permanency. To make this body subject to the same weakness and prejudices, which are incident to popular assemblies, and which it was instituted to correct; to destroy the balance between them. The amendment will render the senator a slave to all the capricious humors among the people. It will probably be here suggested that the Legislatures, not the people, are to have the power of recall. Without attempting to prove that the Legislatures must be, in a great degree, the image of the multitude in respect to federal affairs, and that the same prejudices and factions will prevail, I insist, that in whatever body the power of recall is vested, the senator will perpetually feel himself in such a state of vassalage and dependence, that he never can possess that firmness which is necessary to the discharge of his great duty to the Union.

Gentlemen in their reasoning have placed the interests of the several States and those of the United States in contrast. This is not a fair view of the subject. They must necessarily be involved in each other. What we apprehend is, that some sinister prejudice, or some prevailing passion, may assume the form of a genuine interest. The influence of these is as powerful as the most permanent conviction of the public good, and against this influence we ought to provide. The local interests of a State ought in every case to give way to the interests of the Union. For when a sacrifice of one or the other is necessary, the former becomes only an apparent, partial interest, and should yield, on the principle that the smaller good ought never to oppose the greater one. When you assemble from your several counties in the Legislature, were every member to be guided

only by the apparent interest of his county, government would be impracticable. There must be a perpetual accommodation and sacrifice of local advantage to general expediency. But the spirit of a more popular assembly would rarely be actuated by this important principle. It is, therefore, absolutely necessary that the Senate should be so formed as to be unbiassed by false conceptions of the real interests, or undue attachment to the apparent good of their several States.

Gentlemen indulge too many unreasonable apprehensions of danger to the State governments. They seem to suppose, that the moment you put men into the national council, they become corrupt and tyrannical, and lose all their affection for their fellow-citizens. But can we imagine that the Senators will ever be so insensible of their own advantage as to sacrifice the genuine interest of their constituents? The State governments are essentially necessary to the form and spirit of the general system. As long, therefore, as Congress have a full conviction of this necessity, they must, even upon principles purely national, have as firm an attachment to the one as to the other. This conviction can never leave them, unless they become madmen. While the Constitution continues to be read, and its principles known, the States must, by every rational man, be considered as essential component parts of the Union; and therefore the idea of sacrificing the former to the latter is totally inadmissible.

The objectors do not advert to the natural strength and resources of the State governments, which will ever give them an important superiority over the General Government. If we compare the nature of their different powers, or the means of popular influence which each possesses, we shall find the advantage entirely on the side of the States. This consideration, important as it is, seems to have been little attended to. The aggregate number of representatives throughout the States may be two thousand. Their personal influence will therefore be proportionably more extensive than that of one or two hundred men in Congress. The State establishments of civil and military officers of every description, infinitely surpassing in number any corresponding establishments in the General Government, will

create such an extent and complication of attachments as will ever secure the predilection and support of the people. Whenever, therefore, Congress shall meditate any infringement of the State Constitutions, the great body of the people will naturally take part with their domestic representatives. Can the General Government withstand such a united opposition? Will the people suffer themselves to be stripped of their privileges? Will they suffer their legislatures to be reduced to a shadow and a name? The idea is shocking to common sense.

From the circumstances already explained, and many others which might be mentioned, results a complicated, irresistible check, which must ever support the existence and importance of the State governments. The danger, if any exists, flows from an opposite source. The probable evil is, that the General Government will be too dependent on the State legislatures, too much governed by their prejudices, and too obsequious to their humors; that the States, with every power in their hands, will make encroachments on the national authority till the Union is weakened and dissolved.

Every member must have been struck with an observation of a gentleman from Albany. Do what you will, he says, local prejudices and opinions will go into the government. What! shall we then form a Constitution to cherish and strengthen these prejudices? Shall we confirm the distemper instead of remedying it? It is undeniable that there must be a control somewhere. Either the general interest is to control the particular interests, or the contrary. If the former, then certainly the Government ought to be so framed as to render the power of control efficient to all intents and purposes; if the latter, a striking absurdity follows. The controlling powers must be as numerous as the varying interests, and the operations of government must therefore cease. For the moment you accommodate these differing interests, which is the only way to set the government in motion, you establish a general controlling power. Thus, whatever constitutional provisions are made to the contrary, every Government will be at last driven to the necessity of subjecting the partial to the universal interest. The gentlemen ought always,

in their reasoning, to distinguish between the real, genuine good of a State, and the opinions and prejudices which may prevail respecting it. The latter may be opposed to the general good, and consequently ought to be sacrificed; the former is so involved in it that it never can be sacrificed. Sir, the main design of the convention, in forming the Senate, was to prevent fluctuations and cabals. With this view, they made that body small, and to exist for a considerable period. Have they carried this design too far? The Senators are to serve six years. This is only two years longer than the Senators of this State hold their places. One-third of the members are to go out every two years; and in six the whole body may be changed. Prior to the Revolution, the representatives in the several colonies were elected for different periods; for three years, for seven years, &c. Were those bodies ever considered as incapable of representing the people, or as too independent of them? There is one circumstance which will have a tendency to increase the dependence of the Senators on the States, in proportion to the duration of their appointments. As the State legislatures are in continual fluctuation, the Senator will have more attachments to form, and consequently a greater difficulty of maintaining his place, than one of shorter duration. He will therefore be more cautious and industrious to suit his conduct to the wishes of his constituents.

When you take a view of all the circumstances which have been recited, you will certainly see, that the Senators will constantly look up to the State governments, with an eye of dependence and affection. If they are ambitious to continue in office, they will make every prudent arrangement for this purpose, and whatever may be their private sentiments of politics, they will be convinced, that the surest means of obtaining a re-election, will be a uniform attachment to the interests of their several States.

In support of this amendment it has been observed that the power of recall, under the old Government, has never been exercised. There is no reasoning from this. The experience of a few years, under peculiar circumstances, can afford no probable security that it never will be carried into execution, with un-

happy effects. A seat in Congress has been less an object of ambition; and the arts of intrigue, consequently, have been less practised. Indeed, it has been difficult to find men, who were willing to suffer the mortifications to which so feeble a Government, and so dependent a station exposed them.

Sir, if you consider but a moment the purposes, for which the Senate was instituted, and the nature of the business which they are to transact, you will see the necessity of giving them duration. They, together with the President, are to manage all our concerns with foreign nations. They must understand all their interests, and their political systems. This knowledge is not soon acquired,—but a very small part is gained in the closet. Is it desirable that new and unqualified members should be continually thrown into that body? When public bodies are engaged in the exercise of general powers, you cannot judge of the propriety of their conduct, but from the result of their systems. They may be forming plans, which require time and diligence to bring to maturity. It is necessary, therefore, that they should have a considerable and fixed duration, that they may make their calculations accordingly. If they are to be perpetually fluctuating, they can never have that responsibility which is so important in republican governments. In bodies subject to frequent changes, great political plans must be conducted by members in succession: a single Assembly can have but a partial agency in them, and consequently cannot be answerable for the final event. Considering the Senate therefore with a view to responsibility, duration is a very interesting and essential quality. There is another view in which duration in the Senate appears necessary: a government changeable in its policy, must soon lose its sense of national character, and forfeit the respect of foreigners.—Senators will not be solicitous for the reputation of public measures, in which they have had but a temporary concern, and will feel lightly the burthen of public disapprobation, in proportion to the number of those who partake of the censure. Our political rivals will ever consider our most able counsels as evidence of deficient wisdom, and will be little apprehensive of our arriving at any exalted station in the scale of

power. Such are the internal and external disadvantages which would result from the principle contended for. Were it admitted, I am firmly persuaded, sir, that prejudices would govern the public deliberations, and passions rage in the counsels of the Union. If it were necessary, I could illustrate my subject by historical facts. I could travel through an extensive field of detail, and demonstrate that wherever the fatal principle, of the head suffering the control of the members, has operated, it has proved a fruitful source of commotions and disorder.

This is the first fair opportunity that has been offered of deliberately correcting the errors in government. Instability has been a prominent and very defective feature in most republican systems. It is the first to be seen, and the last to be lamented by a philosophical inquirer. It has operated most banefully in our infant republics. It is necessary that we apply an immediate remedy, and eradicate the poisonous principle from our government. If this be not done we shall feel, and posterity will be convulsed, by a painful malady.

This is one of those subjects on which objections very naturally arise, and assume the most plausible shape. Its address is to the passions, and its first impressions create a prejudice, before cool examination has an opportunity for exertion. It is more easy for the human mind to calculate the evils, than the advantages of a measure; and vastly more natural to apprehend the danger than to see the necessity of giving powers to our rulers. Hence, I may justly expect that those who hear me will place less confidence in those arguments which oppose, than in those which favor, their prepossessions.

After all our doubts, our suspicions, and speculations, on the subject of government, we must return at last to the important truth, that when we have formed a Constitution upon free principles, when we have given a proper balance to the different branches of administration, and fixed representation upon pure and equal principles, we may with safety furnish it with all the powers necessary to answer in the most ample manner the purposes of government. The great desiderata are a free representation and mutual checks. When these are obtained, all our ap

prehensions of the extent of powers are unjust and imaginary. What is the structure of this Constitution? One branch of the legislature is to be elected by the people—by the same people who chose your State representatives. Its members are to hold their office two years, and then return to their constituents. Here the people govern. Here they act by their immediate representatives. You have also a Senate, constituted by your State legislatures, by men in whom you place the highest confidence, and forming another representative branch. Then, again, you have an executive magistate, created by a form of election which meets universal admiration. In the form of this government, and in the mode of legislation, you find all the checks which the greatest politicians and the best writers have ever conceived. What more can reasonable men desire? Is there any one branch in which the whole legislative and executive powers are lodged? No. The legislative authority is lodged in three distinct branches, properly balanced. The executive authority is divided between two branches, and the judicial is still reserved for an independent body, who hold their office during good behavior. This organization is so complex, so skilfully contrived, that it is next to impossible that an impolitic or wicked measure should pass the great scrutiny with success. Now, what do gentlemen mean by coming forward and declaiming against this government? Why do they say we ought to limit its powers, to disable it, and to destroy its capacity of blessing the people? Has philosophy suggested—has experience taught—that such a government ought not to be trusted with every thing necessary for the good of society? When you have divided and nicely balanced the departments of government; when you have strongly connected the virtue of your rulers with their interest; when, in short, you have rendered your system as perfect as human forms can be, you must place confidence, you must give power.

We have heard a great deal of the sword and the purse. It is said our liberties are in danger if both are possessed by Congress. Let us see what is the true meaning of this maxim, which has been so much used, and so little understood. It is,

that you shall not place these powers in either the Legislative or Executive, singly; neither one nor the other shall have both; because this would destroy that division of powers on which political liberty is founded, and would furnish one body with all the means of tyranny. But when the purse is lodged in one branch, and the sword in another, there can be no danger. All governments have possessed these powers. They would be monsters without them, and incapable of exertion. What is your State government? Does not your Legislature command what money it pleases? Does not your Executive execute the laws without restraint? These distinctions between the purse and the sword have no application to the system, but only to its separate branches. When we reason about the great interests of a great people, it is high time that we dismiss our prejudices, and banish declamation.

In order to induce us to consider the powers given by this Constitution as dangerous, in order to render plausible an attempt to take away the life and spirit of the most important power in government, the gentleman complains that we shall not have a true and safe representation. I have asked him what a safe representation is, and he has given no satisfactory answer. The Assembly of New-York has been mentioned as a proper standard. But if we apply this standard to the General Government, our Congress will become a mere mob, exposed to every irregular impulse, and subject to every breeze of faction. Can such a system afford security? Can you have confidence in such a body? The idea of taking the ratio of representation in a small society, for the ratio of a great one, is a fallacy which ought to be exposed. It is impossible to ascertain to what point our representation will increase. It may vary from one to two, three, or four hundred. It depends upon the progress of population. Suppose it to rest at two hundred; is not this number sufficient to secure it against corruption? Human nature must be a much more weak and despicable thing than I apprehend it to be, if two hundred of our fellow-citizens can be corrupted in two years. But suppose they are corrupted; can they, in two years, accomplish their designs? Can they form a combination,

and even lay a foundation for a system of tyranny, in so short a period? It is far from my intention to wound the feelings of any gentleman; but I must, in this most interesting discussion, speak of things as they are, and hold up opinions in the light in which they ought to appear; and I maintain, that all that has been said of corruption, of the purse and the sword, and of the danger of giving powers, is not supported by principle or fact; that it is mere verbiage and idle declamation. The true principle of government is this—make the system complete in its structure; give a perfect proportion and balance to its parts, and the powers you give it will never affect your security. The question, then, of the division of powers between the General and State governments, is a question of convenience. It becomes a prudential inquiry, what powers are proper to be reserved to the latter, and this immediately involves another inquiry into the proper objects of the two governments. This is the criterion by which we shall determine the just distribution of powers.

The great leading objects of the Federal Government, in which revenue is concerned, are to maintain domestic peace, and provide for the common defence. In these are comprehended the regulation of commerce, that is, the whole system of foreign intercourse, the support of armies and navies, and of the civil administration. It is useless to go into detail. Every one knows that the objects of the General Government are numerous, extensive, and important. Every one must acknowledge the necessity of giving powers, in all respects and in every degree, equal to these objects. This principle assented to, let us inquire what are the objects of the State governments. Have they to provide against foreign invasion? Have they to maintain fleets and armies? Have they any concern in the regulation of commerce, the procuring alliances, or forming treaties of peace? No. Their objects are merely civil and domestic, to support the legislative establishment, and to provide for the administration of the laws. Let any one compare the expense of supporting the civil list in a State, with the expense of providing for the defence of the Union. The difference is almost beyond calculation. The

experience of Great Britain will throw some light on this subject. In that kingdom, the ordinary expenses of peace to those of war are as one to fourteen. But there they have a monarch, with his splendid court, and an enormous civil establishment, with which we have nothing in this country to compare. If, in Great Britain, the expenses of war and peace are so disproportioned, how wide will be their disparity in the United States! How infinitely wider between the General Government and that of each individual State! Where ought the great resources to be lodged? Every rational man will give an immediate answer. To what extent shall these resources be possessed? Reason says, as far as possible exigencies can require; that is, without limitation. A Constitution cannot set bounds to a nation's wants; it ought not therefore to set bounds to its resources. Unexpected visitations, long and ruinous wars, may demand all the possible abilities of the country. Shall not our government have power to call these abilities into action? The contingencies of society are not reducible to calculations; they cannot be fixed or bounded, even in imagination. Will you limit the means of your defence, when you cannot ascertain the force or extent of the invasion? Even in ordinary wars, a government is frequently obliged to call for supplies, to the temporary oppression of the people.

If we adopt the idea of exclusive revenues, we shall be obliged to fix some distinguishing line, which neither government shall overpass. The inconveniences of this measure must appear evident on the slightest examination. The resources appropriated to one may diminish or fail, while those of the other may increase beyond the wants of government. One may be destitute of revenues, while the other shall possess an unnecessary abundance; and the Constitution will be an eternal barrier to a mutual intercourse and relief. In this case, will the individual States stand on so good a ground as if the objects of taxation were left free and open to the embrace of both the governments? Possibly, in the advancement of commerce, the imposts may increase to such a degree, as to render direct taxes unnecessary; these resources, then, as the Constitution stands, may be occa-

sionally relinquished to the States. But on the gentleman's idea of prescribing exclusive limits, and precluding all reciprocal communication, this would be entirely improper. The laws of the States must not touch the appropriated resources of the United States, whatever may be their wants. Would it not be of more advantage to the States to have a concurrent jurisdiction extending to all the sources of revenue, than to be confined to such a small resource as, on calculation of the objects of the two governments, should appear to be their due proportion? Certainly, you cannot hesitate on this question. The gentleman's plan would also have a further ill effect; it would tend to dissolve the connection and correspondence of the two governments, to estrange them from each other, and to destroy that mutual dependence which forms the essence of Union.

A number of arguments have been advanced by an honorable member from New-York, which, to every unclouded mind, must carry conviction. He has stated that, in sudden emergencies, it may be necessary to borrow; and that it is impossible to borrow unless you have funds to pledge for the payment of your debts. Limiting the powers of government to certain resources, is rendering the funds precarious; and obliging the government to ask, instead of empowering it to command, is to destroy all confidence and credit. If the power of taxing is restricted, the consequence is, that on the breaking out of a war, you must divert the funds, appropriated to the payment of debts, to answer immediate exigencies. Thus, you violate your engagements at the very time you increase the burthen of them. Besides, sound policy condemns the practice of accumulating debts. A government, to act with energy, should have the possession of all its revenues to answer present purposes. The principle, for which I contend, is recognized in all its extent by our old Constitution. Congress is authorized to raise troops, to call for supplies without limitation, and to borrow money to any amount. It is true, they must use the form of recommendations and requisitions; but the States are bound, by the solemn ties of honor, of justice, of religion, to comply without reserve.

Mr. Chairman,—It has been advanced as a principle, that no

government but a despotism can exist in a very extensive country. This is a melancholy consideration indeed. If it were founded on truth, we ought to dismiss the idea of a Republican government, even for the State of New-York. This idea has been taken from a celebrated writer, who, by being misunderstood, has been the occasion of frequent fallacies in our reasoning on political subjects. But the position has been misapprehended; and its application is entirely false and unwarrantable. It relates only to Democracies, where the whole body of the people meet to transact business, and where representation is unknown. Such were a number of ancient, and some modern independent cities. Men who read without attention, have taken these maxims respecting the extent of country; and, contrary to their proper meaning, have applied them to Republics in general. This application is wrong, in respect to all representative governments, but especially in relation to a Confederacy of States, in which the supreme legislature has only general powers, and the civil and domestic concerns of the people are regulated by the laws of the several States. This distinction being kept in view, all the difficulty will vanish, and we may easily conceive, that the people of a large country may be represented as truly, as those of a small one. An assembly constituted for general purposes, may be fully competent to every federal regulation, without being too numerous for deliberate conduct. If the State governments were to be abolished, the question would wear a different face; but this idea is inadmissible. They are absolutely necessary to the system. Their existence must form a leading principle in the most perfect Constitution we could form. I insist that it never can be the interest or desire of the National legislature, to destroy the State governments. It can derive no advantage from such an event; but, on the contrary, would lose an indispensable support, a necessary aid in executing the laws, and conveying the influence of government to the doors of the people. The Union is dependent on the will of the State governments for its Chief Magistrate, and for its Senate. The blow aimed at the members, must give a fatal wound to the head, and the destruction of the States must be at once a politi-

cal suicide. Can the National Government be guilty of this madness? What inducements, what temptations, can they have? Will they attach new honors to their station; will they increase the national strength; will they multiply the national resources; will they make themselves more respectable, in the view of foreign nations, or of their fellow-citizens, by robbing the States of their constitutional privileges? But imagine for a moment, that a political frenzy should seize the government. Suppose they should make the attempt. Certainly it would be for ever impracticable. This has been sufficiently demonstrated by reason and experience. It has been proved, that the members of republics have been, and ever will be, stronger than the head. Let us attend to one general historical example. In the ancient feudal governments of Europe there was in the first place a monarch; subordinate to him a body of nobles; and subject to these, the vassals or the whole body of the people. The authority of the kings was limited, and that of the barons considerably independent. A great part of the early wars in Europe were contests between the king and his nobility. In these contests, the latter possessed many advantages, derived from their influence, and the immediate command they had over the people, and they generally prevailed. The history of the feudal wars exhibits little more than a series of successful encroachments on the prerogatives of monarchy. Here is one great proof of the superiority, which the members in limited governments possess over their head. As long as the barons enjoyed the confidence and attachment of the people, they had the strength of the country on their side, and were irresistible. I may be told that in some instances the barons were overcome. But how did this happen? They took advantage of the depression of the royal authority, and the establishment of their own power, to oppress and tyrannize over their vassals. As commerce enlarged, and as wealth and civilization increased, the people began to feel their own weight and consequence; they grew tired of their oppressions; united their strength with that of the prince; and threw off the yoke of aristocracy. These very instances prove what I contend for. They prove, that in whatever direction

the popular weight leans, the current of power will flow. Wherever the popular attachments be, there will rest the political superiority. Sir, can it be supposed that the State governments will become the oppressors of the people? Will they forget their affections? Will they combine to destroy the liberties and happiness of their fellow-citizens, for the sole purpose of involving themselves in ruin? God forbid! The idea is shocking! It outrages every feeling of humanity, and every dictate of common sense!

There are certain social principles in human nature, from which we may draw the most solid conclusions with respect to the conduct of individuals, and of communities. We love our families, more than our neighbors; we love our neighbors more than our countrymen in general. The human affections, like the solar heat, lose their intensity, as they depart from the centre; and become languid in proportion to the expansion of the circle on which they act. On these principles, the attachment of the individual will be first and for ever secured by the State governments. They will be a mutual protection and support. Another source of influence, which has already been pointed out, is the various official connections in the States. Gentlemen endeavor to evade the force of this, by saying that these offices will be insignificant. This is by no means true. The State officers will ever be important, because they are necessary and useful. Their powers are such as are extremely interesting to the people, such as affect their property, their liberty and life. What is more important, than the administration of justice, and the execution of the civil and criminal laws? Can the State governments become insignificant, while they have the power of raising money independently and without control? If they are really useful; if they are calculated to promote the essential interests of the people; they must have their confidence and support. The States can never lose their till the whole people of America are robbed of their liberties. These must go together, they must support each other, or meet one common fate. On the gentleman's principles, we may safely trust the State governments, though we have no means of re-

sisting them, but we cannot confide in the National Government, though we have an effectual constitutional guard against every encroachment. This is the essence of their argument, and it is false and fallacious beyond conception.

With regard to the jurisdiction of the two Governments, I shall certainly admit that the Constitution ought not to be so formed as to prevent the States providing for their own existence; and I maintain that it is so formed that their power of providing for themselves is sufficiently established. This is conceded by one gentleman, and in the next breath the concession is retracted. He says Congress have but one exclusive right in taxation, that of duties on imports. Certainly, then, their other powers are only concurrent. But, to take off the force of this obvious conclusion, he immediately says that if the laws of the United States are supreme, those of the States must be subordinate, because there cannot be two supremes. This is curious sophistry. That two supreme powers cannot act together is false. They are inconsistent only when they are aimed at each other, or at one indivisible object. The laws of the United States are supreme as to all their proper constitutional objects. The laws of the States are supreme in the same way. These supreme laws may act on different objects without clashing, or they may operate on different parts of the same common object with perfect harmony. Suppose both governments should lay a tax of a penny on a certain article. Has not each an independent and uncontrollable power to collect its own tax? The meaning of the axiom, that there cannot be two supremes, is simply this: two powers cannot be supreme over each other. This meaning is entirely perverted by the gentlemen. But, it is said, disputes between collectors are to be referred to the Federal courts. This is again wandering in the field of conjecture. But suppose the fact certain. Is it not to be presumed that they will express the true meaning of the Constitution and the laws? Will they not be bound to consider the concurrent jurisdiction; to declare that both the taxes shall have equal operation; that both the powers, in that respect, are sovereign and coextensive? If they transgress their duty we are to hope that they will be punished.

Sir, we cannot reason from probabilities alone. When we leave common sense, and give ourselves up to conjecture, there can be no certainty, no security in our reasonings.

I imagine I have stated to the committee abundant reasons to prove the entire safety of the State governments and of the people. I would go into a more minute consideration of the nature of the concurrent jurisdiction, and of the operation of the laws in relation to revenue; but at present I feel too much indisposed to proceed. I shall, with the leave of the committee, improve another opportunity of expressing to them more fully my ideas on this point. I wish the committee to remember, that the Constitution under examination is framed upon truly republican principles, and that, as it is expressly designed to provide for the common protection and the general welfare of the United States, it must be utterly repugnant to this Constitution to subvert the State governments, or oppress the people.

BRIEF OF ARGUMENT ON THE CONSTITUTION OF THE UNITED STATES.

1788.

A. I. A republic, a word used in various senses.
Has been applied to aristocracies and monarchies.
1. To Rome, under the kings.
2. To Sparta, though a Senate for life.
3. To Carthage, though the same.
4. To United Netherlands, though Stadtholder, hereditary nobles.
5. To Poland, though aristocracy and monarchy.
6. To Great Britain, though monarchy, &c.

II. Again, great confusion about the words democracy, aristocracy, monarchy.
I. Democracy defined by some, Rousseau, &c., a government exercised by the collective body of the people.

2. Delegation of their power has been made the criterion of aristocracy.

I. Aristocracy has been used to designate governments.

1. Where an independent few possessed sovereignty.

2. Where the representatives of the people possessed it.

II. Monarch, where sovereignty in the hands of a single man.

☞ General idea—Independent in his situation, in any other sense would apply to State of New York.

III. Democracy in my sense, where the whole power of the government in the people.

I. Whether exercised by themselves, or

2. By their representatives, chosen by them either mediately or immediately and legally accountable to them.

IV. Aristocracy where whole sovereignty is permanently in the hands of a few for life or hereditary.

V. Monarchy where the whole sovereignty is in the hands of one man for life or hereditary.

VI. Mixed government where these three principles unite.

B I. *Consequence*, the proposed government a *representative democracy.*

1. House of representatives directly chosen by the people for two years.

2. Senate indirectly chosen by them for six years.

3. President indirectly chosen by them for four years.

☞ Thus legislative and executive representatives of the people.

4. Judicial power, representatives of the people indirectly chosen during good behavior.

5. All officers indirect choice of the people.

☞ Constitution revocable and alterable by the people.

C I. This representative democracy as far as is consistent with its genius has all the features of good government. These features.

1. An immediate and operative representation of the people, which is found in the House of Representatives.
2. Stability and wisdom, which is found in the Senate.
3. A vigorous executive, which is found in the President.
4. An independent judicial, which is found in the Supreme Court, &c.

b A separation of the essential powers of government. Ascertain the sense of the maxim.

1. One department must not wholly possess the powers of another.
   = Montesquieu.
   = British Government.

II. Departments of power must be separated, yet so as to check each other.

1. Legislative.
2. Legislative executive.
3. Judicial legislative.
4. Legislative judicial.

☞ All this done in the proposed Constitution.

1. Legislative in the Congress, yet checked by negative of the Executive.
2. Executive in the President, yet checked by impeachment of Congress.
3. Judicial check upon Legislative, or Interpretation of Laws.
4. And checked by Legislative through Impeachment.

D. 1. Can such a Government apply to so extensive a territory?

Exaggerated ideas of extent.

N.	45	42		
S.	31	31		
	14	11		434
	973	764½	mean	868¾ by 750

Great Britain.

2. Despotic Government for a large country to be examined.

Review.

I. Full House of Representatives chosen every second year, &c.

II. Senate for six years by Legislatures.
Rotation every two years.
Probable increase.

III. Executive manner of appointment.
Compensation.
Negotiation of treaties.
Nomination of officers.

IV. Judicial power. Constitution of Judges.
Extent of powers.
Inferior Courts.
Trial by jury.
Criminal cases.

Powers.

I. To provide revenue for the common defence.
II. To regulate commerce.
III. To declare war.
IV. To raise and support armies.
V. Admission of New States.
VI. Disposal of property.

Miscellaneous Advantages.

I. To prohibit importation of slaves prior to 1808.
II. Account to be rendered of expenditure of moneys.
III. No State shall emit bills of credit under ex post-facto law, or law impairing the obligation of contracts, or grant title of nobility.
IV. Definition of treason.
V. Guarantee of Republican Governments.

DRAFT OF PROPOSED RATIFICATION OF THE CONSTITUTION OF THE UNITED STATES, WITH SPECIFIED AMENDMENTS.

We, the delegates of the people of the State of New-York in Convention assembled, having maturely considered the Constitution for the United States, agreed to on the 17th day of September, in the year 1787, at Philadelphia, in the commonwealth of Pennsylvania, by the Convention then and there convened, and having also seriously and deliberately considered the present situation of the United States, and being convinced that it is advisable to adopt the said Constitution, do declare and make known, in the name and behalf of the people aforesaid, that the powers granted in and by the said Constitution being derived from the people of the United States, may be resumed by them whenever they shall judge it necessary to their happiness; that every power not granted thereby remains either to them or their respective State governments, to whom they may have delegated the same; that therefore no right of any kind, either of the people of the respective States or of the said governments, can be cancelled, abridged, restrained, or modified by Congress, or by any officer or department of the United States, except in conformity to the powers given by the said Constitution, that among other essential rights, the liberty of conscience and of the press cannot be cancelled or abridged by any authority of the United States.

With these impressions, with a firm reliance on the blessing of Providence upon a government framed under circumstances which afford a new and instructive example of wisdom and moderation to mankind; with an entire conviction that it will be more prudent to rely, for whatever amendments may be desirable in the said Constitution, on the mode therein prescribed, than either to embarrass the Union or hazard dissensions in any part of the community by pursuing a different course, and with a full confidence that the amendments which shall have been proposed will receive an early and mature consideration, and that such of them as may in any degree tend to the real security and perma-

nent advantage of the people, will be adopted: We, the said delegates, in the name and behalf of the PEOPLE of this State, DO, by these presents, assent to and RATIFY the Constitution aforesaid, hereby announcing to all those whom it may concern, that the said Constitution is binding upon the said people according to an authentic copy hereunto annexed.

And to the end, that the sense of the people of this State may be manifested touching certain parts of the said Constitution, concerning which doubts have been raised, we the delegates aforesaid, in the name and behalf of the people aforesaid, do, by these presents, further declare and make known that, according to the true intent and meaning of the said Constitution, Congress ought not to interpose in the regulation of the times, places, and manner of holding elections for Senators and Representatives, except only in such cases in which the Legislatures of the respective States, or any of them, may neglect, refuse, or be unable to make provision, or for the purpose of appointing a uniform time for the election of Representatives; and that the Legislature of any State may, at its discretion, lay out such State into convenient districts for the election of Representatives, and may apportion its Representatives to and among such districts. And also that, except as to duties on imports and exports—in the Post-Office, and duties of tonnage, the United States and the States respectively have concurrent and coequal authority to lay and collect all taxes whatever; and therefore that neither of them can, in any wise, contravene, control, or annul the operation or execution of any law of the other for the imposition or collection of any tax, except as aforesaid. And also that there must be once in every four years an election of the President and Vice-President, so that no other officer who may be appointed by Congress to act as President in case of the removal, death, resignation, or inability of the President and Vice-President, can in any case continue to act beyond the termination of the period for which the last President and Vice-President were elected: and also that the judicial power of the United States, in cases in which a State may be a party, does not extend to criminal prosecutions, or to any suit by private persons against a State; and that the

appellate jurisdiction of the Supreme Court cannot authorize a second trial of any suit in any criminal case whatever, or a second trial of any suit determinable in the course of the common law by a jury, and which shall have been so determined in the original cause. And lastly, that the process of presentment and indictment by a grand jury ought to be observed in every prosecution for any crime, as a necessary preliminary to the trial thereof.

And in order that the foregoing declarations and Constitution may be recognized and inviolably observed in the administration of the government of the United States, this Convention, in the name and behalf of the people aforesaid, do hereby enjoin upon the Senators and Representatives of this State in the Congress, to procure, as soon as may be after the meeting of Congress, a declaratory act in conformity to these presents.

We would also agree to recommend the following Amendments to th Constitution:—

I. That there shall be one Representative for every 30,000, according to the enumeration or census mentioned in the Constitution, until the whole number of Representatives amounts to 200; after which that number shall be continued or increased, but not diminished, as Congress shall direct, and according to such ratio as Congress shall fix in conformity to the rule prescribed for the apportionment of Representatives and Direct Taxes.

II. That the Court for the Trial of Impeachments shall consist of the Senate, the Judges of the Supreme Court of the United States, and the first or senior Judge for the time being, of the highest court of general and ordinary common law jurisdiction in each State. That Congress shall, by standing laws, designate the Courts in the respective States answering this description, and in States having no Courts exactly answering this description, shall designate some other Court, preferring such, if any there be, whose Judge or Judges may hold their places during good behavior,—provided that not more than one Judge shall come from one State. That Congress be authorized to pass laws for compensating the said Judges and for compelling their attendance, and that a majority at least of the said Judges shall be

requisite to constituting said Court. That no person impeached shall sit as a member thereof. That each member shall, previous to the entering upon any trial, take an oath or affirmation honestly and impartially to hear and determine the cause,—and that ——— of the members present shall be necessary for a conviction.

III. That the authority given to the Executives of the States to fill the vacancies of Senators be abolished; and that such vacancies be filled by the respective Legislatures.

IV. That the compensation for the Senators and Representatives be ascertained by standing laws; and that no alteration of the existing rate of compensation shall operate for the benefit of the Representatives until after a subsequent election shall have been had.

V. That no appropriation of money in time of peace for the support of an army, shall be by less than two-thirds of the Representatives and Senators present.

VI. That the Executive shall not take the actual command in the field of an army, without the previous direction of Congress.

VII. That each State shall have power to provide for organizing, arming, and disciplining its militia, when no provision for that purpose shall have been made by Congress, and until such provision shall have been made that the militia shall never be subjected to martial law, but in time of war, rebellion, or insurrection.

VIII. That the Journals of Congress shall be published at least once a year, with exception of such parts relating to treaties or military operations as in the judgment of either House shall require secrecy.

IX. That the judicial power of the United States shall extend to no controversy respecting land, unless it relate to claims of territory or jurisdiction between States, or to claims of land between individuals, or between States and individuals under grants of different States.

X. That no judge of the Supreme Court shall hold any other office under the United States or any of them.

XI. That when the number of persons in the district of territory to be laid out for the seat of the Government of the United States, shall, according to the rule for the apportionment of Representatives and direct taxes, amount to ———, such district shall cease to be parcel of the State granting the same, and provision shall be made by Congress for having a distinct representation in that body.

XII. That the Representatives, Senators, Presidents, Vice-Presidents, and Judges of the United States, shall each take an oath or affirmation not to infringe or violate the Constitution of the respective States.

XIII. That no capitation tax shall ever be laid by Congress.

RESOLUTIONS IN CONGRESS.

NEW-YORK, August 7, 1788.

Whereas the Convention assembled at Philadelphia, in the Commonwealth of Pennsylvania, did, on the seventeenth day of September, last past, resolve, as the opinion of that Convention, that as soon as the Conventions of nine States should have ratified the Constitution, then and there agreed upon by the said Convention, the United States, in Congress assembled, should fix a day on which electors should be appointed by the States which should have ratified the same, and a day on which the electors should assemble to vote for the President, and the time and place for commencing proceedings under the said Constitution; and whereas the United States, in Congress assembled, having received the ratifications of the said Constitution, by eleven States, did, on the twenty-eighth ultimo, and on the fourth and sixth instant, agree to the following resolutions, to wit: That the first Wednesday in January next be the day for appointing electors in the several States, which before the said day shall have ratified the said Constitution; that the first Wednesday in February next, be the day for the electors to assemble in their respective

States, and vote for a President; and that the first Wednesday in March next be the time, and the present seat of Congress the place, for commencing the proceedings under the said Constitution;

And whereas it does not appear that the States of Rhode Island and North Carolina have ratified the said Constitution, and whereas the delegates of the said two States have voted upon certain parts of the said resolutions, therefore,

Resolved, as the sense of this Congress, That any vote given, or which may be given on said resolutions, by the delegate or delegates of any State which hath not ratified the said Constitution, shall in no wise be construed, directly or indirectly, to imply, on their part, or on the part of the States which they represent, an approbation of the Constitution aforesaid, or of any part thereof, or any manner or kind of obligation on the part of any such State touching the same, or the relinquishment of any right heretofore or now claimed, or which may be claimed by such State; and that all and singular the rights of such State shall remain, continue, and are, to all intents and purposes, in the same situation as if such delegates had refrained from voting respecting the said resolutions.

ASYLUM TO FUGITIVE SLAVES.

August 26, 1788.

On the report of a committee, consisting of Mr. Hamilton, Mr. Sedgewick, and Mr. Madison, to whom was referred a report of the Secretary for the Department of Foreign Affairs, of the 14th instant,

Resolved, That the Secretary for the Department of Foreign Affairs be directed to transmit copies of the papers referred to in his said report, to the Chargé des Affaires of the United States at Madrid, and instruct him to represent to his Catholic Majesty the inconveniences which the States bordering on his dominions experience from the asylum afforded to fugitive negroes belonging

to the citizens of the said States; and that Congress have full confidence that orders shall be given to his governors to permit and facilitate their being apprehended and delivered to persons authorized to receive them; assuring his Majesty that the said States will observe the like conduct respecting all such negroes belonging to his subjects, as may be found therein.

Resolved, That the said Secretary be also directed to communicate the said papers to the Encargado de Negocios of Spain, and to signify to him that his interposition to obtain proper regulations to be made on the subject, would be very agreeable to Congress.

FREE NAVIGATION OF THE MISSISSIPPI.

September 16, 1788.

On the report of the committee, consisting of Mr. Hamilton, Mr. Madison, Mr. Williamson, Mr. Dane, and Mr. Edwards, to whom was referred the report of the Secretary for Foreign Affairs, on a motion of the delegates of North Carolina, stating the uneasiness produced by a report "that Congress are disposed to treat with Spain for the surrender of their claim to the navigation of the river Mississippi," and proposing a resolution intended to remove such apprehensions,

Resolved, That the said report, not being founded in fact, the delegates be at liberty to communicate all such circumstances as may be necessary to contradict the same, and to remove misconceptions.

Resolved, That the free navigation of the river Mississippi is a clear and essential right of the United States, and that the same ought to be considered and supported as such.

Resolved, That no further progress be made in the negotiations with Spain, by the Secretary for Foreign Affairs, but that the subject to which they relate be referred to the Federal Congress, which is to assemble in March next.

ADDRESS.

NEW-YORK, February 18, 1789.

To the Supervisors of the City of Albany, in the County of Albany.

GENTLEMEN:

The last Tuesday of April next being the day appointed by law for the election of a Governor for the ensuing three years, the great importance of making a wise choice in the present peculiar situation of our local and national affairs, appears to have made a deep impression on the minds of considerate men in the different parts of the State.

On the eleventh instant, a numerous meeting of respectable inhabitants was held in this city, to consult on what was best to be done in relation to that object; and we have been advised that similar meetings have been held in some other counties.

The meeting in this city were unanimous in the result of their deliberations; and we, the subscribers, were appointed a committee to correspond with our fellow-citizens in the other counties, upon the subject, in order that a mutual communication of sentiments might promote mutual confidence, and a happy concert in such a choice, as a dispassionate attention to the good of the community, divested of all particular attachments or dislikes, should be found to recommend.

The *people* of this State are *the sovereigns* of it; and being now called upon by their Constitution to appoint a Chief Magistrate, it cannot but be useful that so high an act of sovereignty should be preceded by an interchange of ideas and sentiments, especially at so critical a juncture as the present; for at no period can it be more necessary to take care that our affairs be committed to the management of disinterested, discreet, and temperate rulers, than at a period when the heats of party are to be assuaged, discordant opinions reconciled, and all the inconveniences attending changes in national government provided against.

As this State is only part of a larger community; as its prosperity must therefore materially depend on its maintaining its due weight in the national scale; on its being charged with only

its due proportion of public burthens; and on its deriving from the General Government its due share of favor and protection; it is evidently of the greatest moment that the people should be *united* and circumspect, and their rulers should be men who will neither be seduced by interest, nor impelled by passion, into designs or measures which may justly forfeit the confidence or friendship of the other members of the great national society.

On this ground, it is highly necessary that the Chief Magistrate of the State should be free from all temptation wantonly to perplex or embarrass the National Government—whether that temptation should arise from a preference of partial confederacies; from a spirit of competition with the national rulers for personal pre-eminence; from an impatience of the restraints of national authority; from the fear of a diminution of power and emoluments; from resentment or mortification, proceeding from disappointment; or from any other cause whatsoever. For all attempts to perplex and embarrass, would not only tend to prevent the Government from doing the good they may meditate, but would also expose this State to the distrust and ill will of the others.

It is also of no inconsiderable consequence, in the same view, that the Governor of the State should be of a disposition to pay those decent attentions, and practise that becoming republican hospitality, which the persons who administer the National Government, and distinguished strangers in public character, whom the affairs of the nation call to reside in our capital, have a right to expect. The dignity as well as the interests of the State require this, and ample provision is constantly made for it by the liberal salary and perquisites annexed to the office. A contrary conduct cannot fail to create disgust and contempt; and to draw not merely upon the Magistrate himself, but, in some measure, upon the State, imputations not a little mortifying to a people long celebrated for their hospitality, and who uniformly enable their Executive representative to maintain their character in this respect. For it can never be presumed to be their intention to attach such considerable emoluments to the office, *merely for the sake of enriching its possessor.*

Many considerations might be detailed to show the important light in which our political annexation as a member of the Union ought to be viewed, and to demonstrate how much the regulation of our trade, the repossession of our frontier posts, and various other important interests may be affected, by our having much or little influence in the Confederacy. But this would lead to a discussion too long for the occasion, and, to reflecting men, be unnecessary. Hence, however, this inference is to be drawn, that we cannot be too careful of keeping power and opportunity from those, whom we have reason to believe may be predisposed to employ them in a manner calculated to alienate the friendship and confidence of our sister States.

As to the domestic situation of the State, it appeared to the meeting to be such as to admonish us to use great circumspection in the choice of a Governor. The council of appointment is so powerful an engine in the hands of a Governor, for perpetuating himself in office, that his conduct in it cannot be regarded with too watchful an eye; because it is evident, that an artful man may, in the course of ten or twelve years, so fasten himself to the office, by means of this engine, as to become too indifferent to the opinion and control of the people, and perhaps immovable by the efforts of the virtuous and independent. Extremely free from blame, therefore, and from all *suspicion* of undue attachment to place or to profit, and very satisfactory to the *community* at large, ought to be the administration of a Governor, to render it prudent in the people to leave so powerful an engine in his hands for a long succession of years.

As on the one hand, in this council of appointment, the Governor will, for the most part, have a preponderating influence, so on the other, that influence will generally be exerted, according to the views and wishes of the man. If he wishes to promote the public good, and to acquire fame and popularity, by acting as the Governor of the State, and not as the Governor of a party, then merit in every situation will be cherished and employed. If, on the contrary, offices are to be the price of obedience, and men are to enjoy his favor, no longer than they consent to be his tools, merit will be neglected, and the State must

suffer by having the public business, in too many instances, intrusted to improper hands.

In addition to the parties which have too long existed in the State, on personal and particular grounds, it must be lamented, that the new Constitution for the government of the United States has divided the community on a more extensive scale, and has occasioned animosities which have not yet ceased to operate. On that great question very honest men took opposite sides; and those who were not honest assisted in "troubling the waters."

But certainly, it is now high time that those parties should subside; and should, for the sake of the public good, unite; agreeing in these two points, that all should join in supporting the Constitution established by the people of the United States, and that all should join in obtaining a reconsideration of the parts which have been the subject of objection, in order that every reasonable and safe endeavor may be used to give universal satisfaction, to remove the apprehensions entertained by the honest opponents of the system, and to provide, if upon cool and deliberate examination any be found requisite, such additional securities to the liberties of the people, as shall be compatible with the salutary and necessary energy of an efficient National Government. To such a compromise, it is essential that the unhappy divisions which now exist among us should be buried. And to this end, it is equally essential, that our first magistrate should be a man of moderation, sincerely disposed to heal, not to widen those divisions; to promote conciliation, not dissension, to allay, not excite the fermentations of party spirit, and to restore that cordial good will and mutual confidence, which ought to exist among a people, bound to each other by all the ties which connect members of the same society.

It is seriously to be deplored, that dissension reigns in the most important departments of the State, and as dissensions among brethren, so destructive to the happiness of families, are often appeased by parental influence and prudence, so there is good reason to flatter ourselves, that a Chief Magistrate, sincerely desirous of re-establishing concord, may, without much difficulty,

effect it, especially if he should owe his exaltation to the votes of both the contending parties.

Reflections of this nature had their full weight in forming the opinion of the meeting, which appointed us, not only as to the necessity of choosing some other person than the present Governor, but as to the man whom it would be desirable to substitute.

As we are aware, that the warm partisans of men in office are apt to represent every attempt to change them, as a species of personal injury, we think it necessary to remark in this place, that at the expiration of his three years, the Constitution will return the present Chief Magistrate to the mass of the people. The question is not, therefore, whether he shall be put out, but whether he shall be put in. As no man has a right to office, or re-election, in virtue of long possession, no man, of course, can have a right to complain, if the people do not think it proper to continue *to be governed by him.*

In the consideration of the character most proper to be held up at the ensuing election, some difficulties occurred. Our fellow-citizens in some parts of the State had proposed Judge Yates, others had been advocates of the Lieutenant Governor, and others for Chief Justice Morris. It is well known that the inhabitants of this city are, with few exceptions, strongly attached to the New Constitution, and have been remarkably unanimous and active in its support. It is also well known, that Lieutenant Governor Cortland, and Chief Justice Morris, whom we respect and esteem, were zealous advocates for the same cause. Had it been agreed to support either of them for the office of Governor, there would have been reason to fear, that the measure would have been imputed to party, and not to a desire of relieving our country from the evils they experience from the heats of party. It appeared, therefore, most advisable to elect some man of the opposite party, in whose integrity, patriotism and temper, confidence might be placed, however little his political opinions on the question lately agitated might be approved by those who were assembled upon the occasion.

Among the persons of this description, there were circum-

stances which led to a decision in favor of Judge Yates. And we flatter ourselves, that this decision, to those who are acquainted with the situation of the State, will be most likely to appear well founded. It is certain, that as a man and a judge, he is generally esteemed. And though his opposition to the New Constitution was such as his friends cannot but disapprove; yet, since the period of its adoption, his conduct has been tempered with a degree of moderation, and regard to peace and decorum, which entitle him to credit; and seem to point him out as a man likely to compose the differences of the State, and to unite its citizens in the harmonious pursuit of their common and genuine interest.

Of this at least we feel confident, that he has no personal revenge to gratify, no opponents to oppress, no partisans to provide for, nor any promises for personal purposes to be performed at the public expense. On the contrary, we trust he will be found to be a man, who looks with an equal eye on his fellow-citizens, and who will be more ambitious of leaving a good name than a good estate to his posterity.

For these, and for other reasons, which considerations of decorum induce us to pass over in silence, the meeting was unanimously of opinion, that it would be advisable to try Judge Yates, as our Governor for the next three years. They were persuaded, that the State could not lose by the experiment, and entertained strong hopes, that much good would redound to it from his administration.

We shall be happy to find, that the same reasons, and that regard for the public weal, which has at all times distinguished their conduct, may induce the Lieutenant-Governor and Chief Justice Morris to forbear a competition which can evidently, under the existing circumstances, answer no *good* purpose; and that they, and their particular friends, do generously join with their fellow-citizens of every place and party, in promoting the election of Mr. Yates, as the only candidate likely to succeed, whose character affords a prospect, that he will, under Providence, be instrumental in preserving and advancing the dignity and interests of the people, and in restoring to them the blessings of union and cordiality at home, and respect abroad.

It will give us great pleasure to learn the sentiments of your county, on this important subject, and to know, that they coincide with those which we entertain, and which we have every reason to believe, correspond with the general sense of the people of this city and county. We acknowledge that we feel a very serious anxiety for the issue; and that, from the most mature reflection, we regard a change in the person of the Chief Magistrate, as a matter of high importance to the tranquillity and prosperity of the State. Nor can we forbear, as brethren and fellow-citizens, earnestly to exhort the inhabitants of your county, to weigh well the importance of the opportunity which the approaching election presents to them, and to resolve to exercise their right of suffrage, in that unbiassed and independent manner, which becomes a free and enlightened people. We shall only add, that it is manifestly essential to insure success to the attempt, that all those who concur in the expediency of a change, should zealously unite in the support of the same candidate.

I have the honor to be,
Gentlemen,
Your obedient servant.
By order of the committee,
ALEXANDER HAMILTON, Chairman.

EULOGIUM ON MAJOR-GENERAL GREENE.

DELIVERED BEFORE THE SOCIETY OF THE CINCINNATI,

July 4th, 1789.

There is no duty that could have been assigned to me by this society which I should execute with greater alacrity than the one I am now called upon to perform. All the motives capable of interesting an ingenuous and feeling mind conspire to prompt me to its execution. To commemorate the talents, virtues, and exploits, of great and good men, is at all times a pleasing

task to those who know how to esteem them. But when such men, to the title of superior merit, join that of having been the defenders and guardians of our country; when they have been connected with us as companions in the same dangers, sufferings, misfortunes, and triumphs; when they have been allied to us in the still more endearing character of friends; we recall the ideas of their worth with sensations that affect us yet more nearly, and feel an involuntary propensity to consider their fame as our own. We seem to appropriate to ourselves the good they have done; to take a personal interest in the glory they have acquired; and to share in the very praise we bestow.

In entering upon a subject in which your feelings as well as my own are so deeply concerned, however it might become me to follow examples of humility, I shall refrain from a practice perhaps not less laudable than it is common. I cannot prevail upon myself to check the current of your sensibility by the cold formalities of an apology for the defects of the speaker. These can neither be concealed or extenuated by the affectation of diffidence; nor even by the genuine concessions of conscious inability. 'Tis your command, and the reverence we all bear to the memory of him of whom I am to speak, that must constitute my excuse, and my claim to your indulgence. Did I even possess the powers of oratory, I should with reluctance attempt to employ them upon the present occasion. The native brilliancy of the diamond needs not the polish of art: the conspicuous features of pre-eminent merit, need not the coloring pencil of imagination, nor the florid decorations of rhetoric.

From you who knew and loved him, I fear not the imputation of flattery, or enthusiasm, when I indulge an expectation, that the *name* of GREENE will at once awaken in your minds, the images of whatever is noble and estimable in human nature. The fidelity of the portrait I shall draw, will therefore have nothing to apprehend from your sentence. But I dare not hope that it will meet with equal justice from all others; or that it will entirely escape the cavils of ignorance and the shafts of envy. For high as this great man stood in the estimation of his country, the whole extent of his worth was little known. The situations

in which he has appeared, though such as would have measured the faculties and exhausted the resources of men who might justly challenge the epithet of great, were yet incompetent to the full display of those various, rare, and exalted endowments, with which nature only now and then decorates a favorite, as if with intention to astonish mankind.

As a man, the virtues of Greene are admitted; as a patriot, he holds a place in the foremost rank; as a statesman, he is praised; as a soldier, he is admired. But in the two last characters, especially in the last but one, his reputation falls far below his desert. It required a longer life, and still greater opportunities, to have enabled him to exhibit, in full day, the vast, I had almost said the enormous, powers of his mind.

The termination of the American war—not too soon for his wishes, nor for the welfare of his country, but too soon for his glory—put an end to his military career. The sudden termination of his life, cut him off from those scenes, which the progress of a new, immense, and unsettled empire, could not fail to open to the complete exertion of that universal and pervading genius which qualified him not less for the senate than for the field.

In forming our estimate nevertheless, of his character, we are not left to supposition and conjecture. We are not left to vague indications or uncertain appearances, which partiality might varnish or prejudice discolor. We have a succession of deeds, as glorious as they are unequivocal, to attest his greatness and perpetuate the honors of his name.

It is an observation, as just as it is common, that in those great revolutions which occasionally convulse society, human nature never fails to be brought forward in its brightest as well as in its blackest colors: and it has very properly been ranked not among the least of the advantages which compensate for the evils they produce, that they serve to bring to light, talents and virtues, which might otherwise have languished in obscurity, or only shot forth a few scattered and wandering rays.

NATHANIEL GREENE descended from reputable parents; but not placed, by birth, in that elevated rank which, under a monarchy, is the only sure road to those employments that give

activity and scope to abilities, must, in all probability, have contented himself with the humble lot of a private citizen, or, at most, with the contracted sphere of an elective office, in a colonial and dependent government, scarcely conscious of the resources of his own mind, had not the violated rights of his country called him to act a part on a more splendid and more ample theatre.

Happily for America, he hesitated not to obey the call. The vigor of his genius, corresponding with the importance of the prize to be contended for, overcame the natural moderation of his temper; and though not hurried on by enthusiasm, but animated by an enlightened sense of the value of free government, he cheerfully resolved to stake his fortune, his hopes, his life, and his honor, upon an enterprise, of the danger of which he knew the whole magnitude; in a cause, which was worthy of the toils and of the blood of heroes.

The sword having been appealed to, at Lexington, as the Arbiter of the controversy between Great Britain and America, Greene, shortly after, marched, at the head of a regiment, to join the American forces at Cambridge; determined to abide the awful decision.

He was not long there before the discerning eye of the American Fabius marked him out as the object of his confidence.

His abilities entitled him to a pre-eminent share in the councils of his Chief. He gained it, and he preserved it, amidst all the *checkered varieties* of military vicissitude, and in defiance of all the intrigues of jealous and aspiring rivals.

As long as the measures which conducted us safely through the first most critical stages of the war shall be remembered with approbation; as long as the enterprises of Trenton and Princeton shall be regarded as the dawnings of that bright day which afterwards broke forth with such resplendent lustre; as long as the almost *magic operations* of the remainder of that memorable winter, distinguished not more by these events than by the extraordinary spectacle of a powerful army straitened within narrow limits by the phantom of a military force, and never permitted to transgress those limits with impunity, *in which* skill supplied the place of means, and disposition was the substitute for an

army; as long, I say, as these operations shall continue to be the objects of curiosity and wonder, so long ought the name of Greene to be revered by a grateful country. To attribute to him a portion of the praise which is due, as well to the formation as to the execution of the plans that effected these important ends, can be no derogation from that wisdom and magnanimity which knew how to select and embrace councils worthy of being pursued.

The laurels of a Henry were never tarnished by the obligations he owed and acknowledged to a Sully.

It would be an unpleasing task, and therefore I forbear to lift the veil from off those impotent councils, which, by a formal vote, had decreed an undisturbed passage to an enemy returning from the fairest fruits of his victories, to seek an asylum from impending danger, disheartened by retreat, dispirited by desertion, broken by fatigue, retiring through woods, defiles, and morasses, in which his discipline was useless, in the face of an army superior in numbers, elated by pursuit, and ardent to signalize their courage. 'Tis enough for the honor of Greene to say, that he left nothing unessayed, to avert and to frustrate so degrading a resolution. And it was happy for America, that the man, whose reputation could not be wounded without wounding the cause of his country, had the noble fortitude to rescue himself, and the army he commanded, from the disgrace with which they were both menaced by the characteristic imbecility of a council of war.

Unwilling to do more than merely to glance at a scene in which the meritorious might be involved with the guilty, in promiscuous censure, here let me drop the curtain, and invite you to accompany me to the Heights of Monmouth. There let me recall to your indignant view, the flower of the American infantry flying before an enemy that scarcely dared to pursue—vanquished without a blow—vanquished by their obedience to the commands of a leader who meditated their disgrace. Let me contrast with this the conduct of your Greene; the calm intrepidity and unshaken presence of mind, with which he seconded the dispositions of his General, to arrest the progress of the disorder and

retrieve the fortune of the day. Let me recall to your recollection that well-timed and happy movement on the left of the enemy, by which he so materially contributed to deciding the dubious event of the conflict, and turning the hesitating scale of victory.

From the Heights of Monmouth I might lead you to the Plains of Springfield, there to behold the veteran Knyphaussen, at the head of a veteran army, baffled and almost beaten by a general without an army—aided, or rather embarrassed, by small fugitive bodies of volunteer militia, the mimicry of soldiership!

But it would ill become me to detain you in the contemplation of objects diminutive in comparison with those that are to succeed.

Hitherto, we have seen the illustrious Greene acting in a subordinate capacity, the faint glimmerings of his fame absorbed and lost in the superior rays of a Washington. Happy was it for him to have been called to a more explicit station. Had this never been the case, the future historian, perplexed between the panegyric of friends and the satire of enemies, might have doubted in what colors to draw his true character. Accident, alone, saved a Greene from so equivocal a fate; a reflection which might damp the noble ardor of emulation, and check the towering flight of conscious merit.

The defeat of Camden, and the misfortune of Gates, opened the career of victory and of glory to Greene. Congress having resolved upon a successor to the former, the choice was left to the Commander-in-Chief, and fell upon the latter. In this destination, honorable in proportion as it was critical, he acquiesced with the mingled emotions of a great mind—impelled by a sense of duty—allured by the hope of fame—apprised of the danger and precariousness of the situation, yet confident of its own strength, and animated by the magnitude of the object for which it was to be exerted.

Henceforth we are to view him on a more exalted eminence. He is no longer to figure in an ambiguous or secondary light; he is to shine forth the artificer of his own glory—the leader of armies and the deliverer of States!

To estimate properly the value of his services, it is necessary to recur to the situation of the southern extremity of the Union at the time he entered upon the command in that quarter. Georgia and South Carolina subdued and overrun; the spirit of their people dejected and intimidated; the flame of resistance scarcely kept alive by the transient gleams of a few expiring embers; North Carolina distracted by the still recent effects of internal commotion, dreading the hostility of a considerable part of its own citizens, and depending, for its exertions, on the tried valor and patriotism of the rest, more than on the energy of a feeble and ill-organized government; Virginia, debilitated by the excessive efforts of its early zeal, and by the dissipation of its revenues and forces, in Indian hostilities, in domestic projects, encumbered by a numerous body of slaves, bound by all the laws of degraded humanity to hate their masters; deficient in order and vigor in its administration; and relying wholly, for immediate defence against threatened invasion, on the resources of a country, extensive, populous, and fertile, to be put in motion by the same ardent and magnanimous spirit which first lighted up the opposition to Great Britain, and set the glorious example of resistance to America. In such a situation what was to be hoped? What was to be hoped from a General without troops, without magazines, without money? A man of less depth of penetration or force of soul than Greene, would have recoiled at the prospect; but he, far from desponding, undertook the arduous task with firmness—with a firmness which was the result of a well-informed estimate of a situation perilous but not desperate. He knew how much was to be expected from the efforts of men contending for the rights of man. He knew how much was to be performed by capacity, courage, and perseverance.

Not to be disconcerted by the most complicated embarrassments, nor the most discouraging prospects, he began, before he entered upon the duties of the field, by adjusting the outlines of the plan which was to regulate his future conduct; a plan conceived with so much wisdom, and so perfect a judgment of circumstances, that he never had occasion to depart from it in the progress of his subsequent operations. This alone might suffice

to form the eulogium of his genius, and to demonstrate that he was an accomplished master in the science of military command.

His next care was to endeavor to impress the neighboring States with a proper sense of their situation, in order to induce them, with system and effect, to furnish the succors of which he stood in need. To urge the collection and accelerate the arrival of these, as well as to repel any invasion to which the State might be exposed, he stationed, in Virginia, the Baron de Steuben, an officer who merited and justified his confidence; and having made these preliminary arrangements, he hastened to put himself at the head of the inconsiderable remains of the Southern army, which he joined at Charlotte, on the borders of North Carolina, destitute of every thing but courage, and an unconquerable attachment to the cause they had espoused.

To enter into a particular detail of the operations by which the Southern States were rescued from conquest and desolation, and the last project of Britain for the subjugation of America frustrated, would be to assume the province of the historian. This, neither the occasion, nor any reasonable claim to your indulgence, would justify. A general sketch is all that can, with propriety, be attempted, and shall limit my endeavors. To supply a necessitous army by coercion, and yet maintain the confidence and good will of the coerced; this was among the first and not the least of the difficulties to be surmounted. But delicate and difficult as was the task, it was, nevertheless, accomplished. Conducted with system, moderation, and equity, even *military exactions* lost their rigor, and freemen venerated the hand that reluctantly stripped them of their property for their preservation.

Having concerted the arrangements requisite to this end, Greene, without further delay, entered upon that busy, complicated, and extraordinary scene, which may truly be said to form a phenomenon in war—a scene which almost continually presents us, on the one hand, with victories ruinous to the victors; on the other, with retreats beneficial to the vanquished: which exhibits to our admiration, a commander almost constantly obliged to relinquish the field to his adversary, yet as constantly making ac-

quisitions upon him; beaten to-day; to-morrow, without a blow, compelling the conqueror to renounce the very object for which he had conquered, and, in a manner, to fly from the very foe he had subdued. Too weak, with his collected strength, to dispute the field with an enemy superior both in numbers and discipline, and urged by the necessity of giving activity to the natural force of the country, by rousing the inhabitants from the state of despondency into which they had sunk, with the prospect of succor and protection, Greene divided his little army into two parts; one of which he sent, under Morgan, into the western extremities of North Carolina; and, with the other, marched to Hicks' Creek.

This movement had the desired effect. The appearance of aid, magnified by advantages opportunely gained (though unimportant in themselves), rekindled this ardor of patriotic hope in the breasts of many who had begun to despair, and emboldened them to resume their arms, and again to repair to the standard of liberty.

Sensible of the importance of counteracting this policy of the American General, the British commander hesitated not about the part he should act. Directing his first attention towards the detachment under Morgan, and meditating a decisive blow against that corps, he committed the execution of the enterprise to Lieutenant-Colonel Tarleton, at the head of a thousand veterans. Tarleton, hitherto not less the favorite of fortune than of his chief, hastened to perform the welcome duty; anticipating an easy triumph over foes inferior both in numbers and discipline; and dreaming not of the reverse which was destined to confound his hopes, and even to sully the lustre of his former fame. In the very grasp of victory, when not to combat but to slaughter seemed all that remained to be done, the forward intrepidity of a Washington, seconded by the cool, determined bravery of a Howard, snatched the trophy from his too eager and too exulting hand. He was discomfited and routed. The greater part of his followers were either killed or taken; and the remaining few, with himself, were glad to find safety in flight.

Here first the bright dawn of prosperity began to dispel that

gloomy cloud which had for some time lowered over the Southern horizon! Thunderstruck at so unexpected a disaster, and ill able to spare so considerable a part of his force, Cornwallis resolved, at every sacrifice, to attempt the recovery of his captive troops. The trial of skilful exertion between the Generals, and of patient fortitude between the troops, to which that attempt gave occasion, was such as to render it difficult to pronounce to whom the palm of merit ought to be decreed. Abandoning whatever might impede the celerity of his motions, Cornwallis began and urged the pursuit of the detachment under Morgan, with a rapidity seldom equalled, never surpassed. While, on the other hand, the provident and active Greene spared no exertion to disappoint his enterprising adversary.

Anxious for the security of that detachment, with their prisoners, and desirous of affecting a reunion of his forces, now rendered necessary by a change of circumstances, he gave instant orders for the march of the body under his immediate command to Guilford Court-House; and hastened, in person, through the country, a hundred and fifty miles, to join General Morgan, whom he came up with on the banks of Catawba. Thus, placed in front of the enemy, he was the better able to counteract their immediate design, and to direct the co-operation necessary to the intended junction. So well were his measures taken, that he succeeded in both objects. The prisoners were carried off in safety; and Guilford Court-House, the destined place of rendezvous, received and reunited the two divisions of the American army. Still, however, too weak to keep the field in the face of his enemy, a further retreat became inevitable. A resolution was accordingly taken to retire beyond the Dan. Here a new and not less arduous trial of skill ensued. To get between the American army and Virginia; intercept their supplies and reinforcements; and oblige them to fight on disadvantageous terms: this now became the object of Cornwallis. With this view he directed his march into the upper country, where the rivers were fordable with facility; flattering himself that the depth of the waters below, and the want of boats, would oppose insuperable obstacles to the expeditious passage of the American troops. To

retard the progress of the British army was, of course, an indispensable policy on the part of Greene. For this purpose, he practised every expedient which a mind, fertile in resource, could devise. And so efficacious were the expedients he adopted, that, surmounting all the impediments in his way, he completed his retreat across the Dan, without loss of men, baggage, or stores.

Such, nevertheless, was the energy of the pursuit, that in crossing the three principal rivers, the Catawba, the Yadken, and the Dan, the British troops, in a manner, trod upon the heels of the American. In the passage of the last of the three, the van of the enemy's army reached one shore, almost at the very moment that the rear of ours landed on the opposite.

Cornwallis, upon this occasion, imitating Charles the Twelfth of Sweden, when the celebrated Schulenburgh made good his retreat across the Oder, in spite of the utmost efforts of that vigorous and enterprising monarch, might, with propriety, have exclaimed, This day, at least, Greene has conquered me! The art of retreating is perhaps the most difficult in the art of war. To have effected a retreat in the face of so ardent a pursuit, through so great an extent of country; through a country offering every obstacle; affording scarcely any resource; with troops destitute of every thing, who a great part of the way left the vestiges of their march in their own blood: to have done all this, I say, without loss of any kind, may, without exaggeration, be denominated a masterpiece of military skill and exertion. Disappointed in his first aim, Cornwallis now retired from the Dan to Guilford Court-House. Having driven the American army out of North Carolina, he flattered himself that his efforts would at least be productive of the advantage of an accession of force, by encouraging the numerous royalists of that State to repair to his standard. Greene, not without apprehensions that the hopes of his competitor, in this respect, might be realized, lost not a moment, after receiving a small reinforcement from Virginia, in recrossing the Dan, to take post in the vicinity of the British army, and interrupt their communication with the country. Three weeks passed in a constant scene of military manœuvre:

Cornwallis, equally striving to bring his antagonist to an action; and Greene, adroitly endeavoring to elude it; yet without renouncing such a position as would enable him to prevent both supplies and reinforcements. On this occasion he played the part of Turenne; and he played it with complete success. The relative position which he took and maintained, and the tragical fate of a body of royalists, intercepted in their way to the British army, destroyed every prospect of that aid which they, not without reason, had promised themselves from their adherents in North Carolina.

Virginia, in the mean time, awakened by the presence of danger, exerted herself to reinforce the American army. Greene, speedily finding himself in a condition to outnumber his adversary, resolved to offer that battle which he had hitherto declined. He considered that, in the existing circumstances, a defeat must be, to the enemy, absolute ruin; while to him, from his superiority in cavalry, united with other advantages, it could be nothing more than a partial misfortune, and must be compensated at a price which the enemy could not afford to pay for it.

The two armies, now equally willing to try the fortune of a battle, met and engaged near Guilford Court-House. All that could be expected from able disposition towards insuring success, promised a favorable issue to the American arms. But superior discipline carried it against superior numbers and superior skill. Victory decreed the glory of the combat to the Britons; but Heaven, confirming the hopes of Greene, decreed the advantage of it to the Americans. Greene retired; Cornwallis kept the field. But Greene retired only three miles; and Cornwallis, in three days, abandoning the place where the laurels he had gained were a slender compensation for the loss he had suffered, withdrew to Wilmington on the sea-coast.

This victory cost him a large proportion of the flower of his army; and it cost him a Webster.

Here occurred the problem, on the right solution of which depended the fame of Greene and the fate of the Southern States. There was every probability that the next movement of Corn-

wallis would be towards a junction with Arnold for the invasion of Virginia. Was the American General to keep pace with his adversary in his northern career, in order to resist his future enterprises? Or, was he to return into the field he had lately left, to endeavor to regain what had been there lost? The first, as the most obvious, and, in a personal light, the least perilous course, would have been thought most eligible by an ordinary mind. But the last, as the wisest, though, to his own reputation, the most hazardous, appeared preferable to the comprehensive eye and adventurous spirit of a Greene.

On the one hand, he concluded, justly, that Virginia might safely be trusted to her own strength and resources, and to the aid which, if necessary, she might derive from the North, against all the force which the enemy were then able to employ in that quarter. On the other hand, he foresaw, that if South Carolina and Georgia should be abandoned to the situation in which they then were, they would quickly have abandoned themselves to despair; would have lost even the spirit of opposition; and might have been rendered, in several respects, subservient to the future progress of their conqueror. Under these impressions he determined to return into South Carolina, to attempt the recovery of that and its neighboring State.

This was one of those strokes that denote superior genius, and constitute the sublime of war. 'Twas Scipio leaving Hannibal in Italy, to overcome him at Carthage!

The success was answerable to the judicious boldness of the design. The enemy were divested of their acquisitions in South Carolina and Georgia, with a rapidity which, if not ascertained, would scarcely be credible. In the short space of two months, all their posts in the interior of the country were reduced. The perseverance, courage, enterprise, and resource, displayed by the American General in the course of these events, commanded the admiration even of his enemies. In vain was he defeated in one mode of obtaining his object: another was instantly substituted that answered the end. In vain was he repulsed from before a besieged fortress: he immediately found other means of compel-

ling its defenders to relinquish their stronghold. Where force failed, address and stratagem still won the prize.

Having deprived the enemy of all their posts in the interior of the country, and having wasted their forces in a variety of ways, Greene now thought himself in a condition to aim a decisive blow at the mutilated remains of the British army, and, at least, to oblige them to take refuge within the lines of Charleston. With this view, he collected his forces into one body, and marched to give battle to the enemy, then stationed at the Springs of the Eutaw.

A general action took place. Animated, obstinate, and bloody, was the contest. The front line of the American army, consisting of militia, after beginning a brisk attack, began to give way. At this critical and inauspicious juncture, Greene, with that collected intrepidity which never forsook him, gave orders to the second line, composed of Continentals, to advance to the charge with trailed arms. This order, enforced by example, and executed with matchless composure and constancy, could not fail of success. The British veterans shrunk from the American bayonet. They were routed and pursued a considerable distance. Numbers of them fell into the hands of their pursuers, and the remainder were threatened with a similar fate; when, arriving at a position which, with peculiar advantages, invited to a fresh stand, they rallied, and renewed the action. In vain did the intrepid Washington, at the head of the pursuing detachment, redouble the efforts of his valor, to dislodge them from this new station. He was himself wounded and made a prisoner, and his followers, in their turn, compelled to retire.

But though the enemy, by an exertion of bravery which demands our esteem, saved themselves from the total ruin which was ready to overwhelm them; they had, nevertheless, received too severe a blow to attempt any longer to maintain a footing in the open country. They, accordingly, the day following, retreated towards Charleston; leaving behind them their wounded, and a considerable quantity of arms. Here ended all serious offensive operations in the South! The predatory excursions

which intervened between the battle of the Eutaw and the evacuation of Charleston and Savannah, deserve not a place in the catalogue of military achievements. But before we take leave of a scene as honorable as it was advantageous to the American arms, it behooves us to stop for a moment, to pay the tribute of merited applause to the memory of that gallant officer, who, at the head of the Virginia line, fell in this memorable conflict. More anxious, to the last, about his country than himself, in the very agonies of departing life, he eagerly inquired which of the contending parties prevailed; and having learned that his countrymen were victorious, he like another Epaminondas yielded up his last breath in this noble exclamation: "*Then do I die contented.*" Heroic Campbell! How enviable was such a death!

The evacuation of the two capitals of South Carolina and Georgia, entirely restored those States to their own governments and laws. They now hailed the illustrious Greene as their defender and deliverer. Their gratitude was proportioned to the extent of the benefits resulting from his services; nor did it show itself in words only, but was manifested by acts that did honor to their generosity. Consecrated in the affections of their citizens to the remotest posterity, the fame of Greene will ever find in them, a more durable, as well as a more flattering, memorial, than in the proudest monuments of marble or brass.

But where, alas, is now this consummate General; this brave Soldier; this discerning Statesman; this steady Patriot; this virtuous Citizen; this amiable Man? Why could not so many talents, so many virtues, so many bright and useful qualities, shield him from a premature grave? Why was he not longer spared to a country he so dearly loved; which he was so well able to serve; which still seems so much to stand in need of his services? Why was he only allowed to assist in laying the foundation, and not permitted to aid in rearing the superstructure, of American greatness? Such are the inquiries which our friendly, yet short-sighted regrets, would naturally suggest. But inquiries like these are to be discarded as presumptuous. 'Tis not for us to scan, but to submit to the dispensations of Heaven.

Let us content ourselves with revering the memory, imitating

the virtues, and, as far as we dare, emulating the glory of the man, whom neither our warmest admiration, nor our fondest predilection, could protect from the fatal shaft. And as often as we indulge our sorrow for his loss, let us not fail to mingle the reflection, that he has left behind him, offspring who are the heirs to the friendship which we bore to the father, and who have a claim from many, if not from all of us, to cares not less than parental.

END OF VOL. II.

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